



3 1761 11970746 1



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761119707461>



CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT

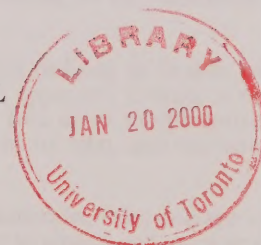
• VOLUME 138

• NUMBER 14

OFFICIAL REPORT
(HANSARD)

Wednesday, December 1, 1999

—
THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER PRO TEMPORE



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, December 1, 1999

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

WORLD AIDS DAY

Hon. Erminie J. Cohen: Honourable senators, I rise today to observe World AIDS Day. At least 190 countries recognize this day, which draws attention to a disease that is affecting people from every corner of the globe. World AIDS Day is intended to raise awareness and increase funding so that we can finally put an end to this horrifying epidemic.

Long gone is the notion that AIDS is a homosexual disease. This deadly, contagious killer is attacking every segment of our society, without preference or prejudice on the basis of race, sex, social or economic status. UN AIDS, the United Nations agency studying the disease and working to put an end to the spread of the virus, recently released a report outlining the terrible threat that this epidemic poses to the entire world. A reported 5.6 million people will be infected this year alone, bringing the global total to 33.6 million individual human beings. With an approximate 10 per cent increase in its incidence this year compared to last, AIDS continues to spread like wildfire.

The spread of HIV through injection drug use has become an urgent problem. It is time for Canada to take a public health approach, such as those endorsed by Britain, the Netherlands, Australia, and Switzerland, which give drug users access to different models of treatment, not only the one that promotes abstinence, and which also increase the funding for treatment centres.

The twelfth annual World AIDS Day is targeted at the youth of the world. This year's theme is "Children and Young People: Listen, Learn, Live". This is timely, considering that, according to the UN report, the majority of AIDS victims contract the virus before they are 25 and do not live to see their thirty-fifth birthday. It is believed that reaching out to the youth of the world is the most promising approach for reducing the spread of the HIV virus.

Today, 20 years after the epidemic first hit, UN AIDS believes that the worst is yet to come unless greater efforts are made to eradicate this disease. As we look forward to the new millennium, we must focus our efforts on education, prevention, improved health care, and, finally and hopefully, a cure. If we are to be successful in putting an end to this painful epidemic, we

need to call on the leaders of the world to combine their efforts. Only by working together can we hope to achieve success.

[Translation]

THE FRANCOPHONIE

Hon. Jean-Robert Gauthier: Honourable senators, the Francophonie spoke out clearly on the protection of cultural diversity. Meeting in Paris on November 30, 1999, the Francophone Ministerial Conference, chaired by the Honourable Ronald Duhamel, the Canadian Secretary of State for the Francophonie, reiterated the principle expressed at the Moncton summit, namely that:

Cultural goods absolutely must not be reduced to their mere economic and market value, and countries and governments have the right to freely establish their own cultural policy.

The Secretary-General of the Organisation Internationale de la Francophonie, Boutros Boutros-Ghali, has said that francophone countries cannot accept rules that would diminish national identities.

The international francophone community is very attached to the basic principle of cultural diversity and multilingualism because they represent its philosophical base and the reason for its existence.

As you know, honourable senators, in the report on Canada's foreign policy entitled "Principles and Priorities for the Future", tabled five years ago, the joint committee of the House and the Senate clearly established, in chapter 6:

Cultural goods are not like other merchandise. They speak a language, they have a nationality, specific socio-cultural roots, and style...

The committee clearly recognized that Canada's foreign policy on cultural, scientific and educational matters was an integral part, with the provinces' involvement, of the implementation of national policy.

The World Trade Organization meeting in Seattle yesterday and today must take a balanced approach: Culture is not to be bought or sold or exchanged like mere merchandise. Each country has a cultural identity of its own, and this uniqueness deserves special treatment.

Canada must reaffirm our position in order to forge alliances to ensure recognition of the need to protect and promote national cultural identities.

[Later]

[English]

RCMP INSPECTOR ROBERT UPSHAW

TRIBUTE ON PROMOTION

Leave having been given to revert to Senators' Statements:

Hon. Calvin Woodrow Ruck: Honourable senators, approximately two weeks ago, about 200 men and women gathered at the Black Cultural Centre on the outskirts of Dartmouth, Nova Scotia to pay tribute to and honour Robert Upshaw, a black man from Windsor Plains, Nova Scotia. Mr Upshaw was recently elevated to the rank of Inspector of the Royal Canadian Mounted Police. The word on the street is that he is the first black man to be appointed to such a high rank in the RCMP.

We are extremely proud of our brother Robert Upshaw and wish him the best as he carries on his work and influences other young people to aspire to such roles as serving in the honourable tradition of the Royal Canadian Mounted Police.

• (1340)

ROUTINE PROCEEDINGS

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—PRESENTATION OF PETITION

Hon. Nicholas W. Taylor: Honourable senators, I have the honour to present a petition from the Board of Elders of the Canadian District of the Moravian Church of America, of the City of Edmonton in the province of Alberta, praying for the passage of an Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church of America.

THE ESTIMATES, 1999-2000

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY ESTIMATES

Hon. Lowell Murray: Honourable senators, I give notice that on Thursday next, December 2, 1999, I will move:

That the Standing Senate Committee on National Finance be empowered to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2000; and

That the Committee present its report no later than March 31, 2000.

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

Hon. Lowell Murray: Honourable senators, I give notice that on Thursday next, December 2, 1999, I will move:

That the Standing Senate Committee on National Finance be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

Hon. Lowell Murray: Honourable senators, I give notice that on Thursday next, December 2, 1999, I will move:

That the Standing Senate Committee on National Finance have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of the Committee's examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

QUESTION PERIOD

FOREIGN AFFAIRS

COST OVERRUNS IN CAPITAL EXPENDITURES ON EMBASSIES ABROAD

Hon. Terry Stratton: Honourable senators, my question to the Leader of the Government in the Senate has to do with a question I asked last week about Foreign Affairs having spent 50 per cent more than its original estimate in the Main Estimates. It is up to \$130 million now for capital construction, \$70 million of which has been allocated for the German embassy, owing to the relocation of the nation's capital from Bonn to Berlin.

Senator Lynch-Staunton: Shame!

Senator Stratton: These questions were also asked when the Finance Committee was looking at the Supplementary Estimates. I asked Officials from the Treasury Board why the costs had escalated by 50 per cent and if they could give me a breakdown. The Treasury Board officials said they would get back to me, and the Honourable Leader of the Government in the Senate said he would get back to me.

I must give credit to the Honourable Senator Hays, who has been fairly quick in responding to our questions. I guess he has more staff, because Senator Carstairs would take longer.

An Hon. Senator: He is from Alberta.

Senator Stratton: An Albertan more efficient than a Manitoban? I do not think so.

Two questions were asked — one in a Finance Committee meeting and one in this chamber last week. They are fairly simple questions. As it happened, I found the answers on page five of *The Ottawa Citizen* this morning.

Perhaps the Leader of the Government in the Senate should be asking me for the answers to these questions. I could advise him that in Seoul, Korea, there is a \$22-million overrun. Not only that, but the \$22-million overrun may have cancelled the project. They bought a piece of land for \$15 million five years ago. The land is vacant. If you use the Finance Minister's method of calculating interest on the opportunity cost of \$15 million over five years, you get \$8 million in lost opportunity costs of that \$15 million.

Then there is the New Delhi residence in India, which is \$200,000 over budget.

Senator Di Nino: That is a lot of money in India.

Senator Stratton: The Bangkok chancellery is two months late and \$300,000 over budget. The costs for the New Delhi chancellery escalated by 139 per cent.

What in the world is going on in Foreign Affairs that they cannot control costs? I can understand being in a country where you do not know the local construction trades, but this is nothing new to Foreign Affairs. They have been doing this kind of thing for years. Surely to goodness they can have a better control on costs than this kind of nonsense where the costs escalate by 50 per cent over the original estimate. It is a travesty that we have a project in Seoul with a \$22-million overrun, and they have cancelled it so that the land is sitting vacant.

Perhaps the Leader of the Government would care to respond.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for his remarks.

Senator Prud'homme: Answer the speech, please.

Senator Boudreau: To some extent, I share his disappointment that the Deputy Leader of the Government was not quicker in responding with that particular answer. However, I also agree that, in general, he has responded quickly, and I thank him for that.

With respect to the individual issues that the honourable senator brings forward, obviously we attempt to get the best value with regard to all construction, relying on the local resources in the country. Judging from the information that the honourable senator shared with us, those local resources have been somewhat unpredictable as we have followed through on these projects. I will attempt to obtain more specific information to address the honourable senators's concerns.

The honourable senator raises concerns with respect to the vacant land. One can only hope that the vacant land has tripled in value so that not only can we avoid an opportunity loss, but perhaps we can even make a gain.

Senator Stratton: I think we owe something to this chamber and to the people of Canada. We have these outrageous overruns. How are you addressing this problem? How will you prevent it in the future?

Senator Boudreau: The honourable senator raises an important issue. I indicated that I would provide the honourable senator with reassurance from the minister that these issues will be reviewed and, hopefully, that measures will be instituted to avoid a repetition.

HUMAN RESOURCES DEVELOPMENT

APPROPRIATE LEVEL OF RESERVE IN EMPLOYMENT INSURANCE FUND

Hon. Donald H. Oliver: Honourable senators, taking a leaf from Senator Stratton's book, I, too, have a bit of a preamble to my question.

• (1350)

In his November 19, 1999 report, the Auditor General raises the question of employment insurance surplus. The EI premium rate is set by the EI Commission, which is composed by representatives from the employees, the employers and the government, and must be approved by cabinet on the recommendation of the Human Resources Development and Finance Ministers. They are supposed to act with a view to creating a rate that will cover program costs while being relatively stable over a business cycle. They are allowed to establish an appropriate level of reserves but with no direction in law as to what is appropriate.

The Auditor General, in a letter to the Human Resources Development Minister last July, pointed out that the EI surplus is now above the \$10 billion to \$15 billion level that the EI actuary considers adequate to meet the requirements of the act. He told the minister that, since the surplus was above the level determined by the plan's actuary to be sufficient, then:

In view of the current level of the surplus, clarification and disclosure of the factors to be used in determining an appropriate level of reserve are necessary.

The government's response to the Auditor General is to simply outline the process by which rates are set, with no response to the specific suggestion that the government disclose the factors to be used in determining an appropriate level of reserves.

Honourable senators, by the end of March the EI surplus will be above \$26 billion. Some time in the next fiscal year it will surpass \$30 billion. My question for the Leader of the Government in the Senate is: Does the government, in fact, have a view on what is an appropriate level of reserves? If so, what is the number and how was that particular number determined?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as the honourable senator knows, there is a very healthy surplus in the Employment Insurance Fund.

As an aside, the healthy surplus is one of the results of a healthy economy, which is what we have at the moment. We should not miss the fact that in the last quarter the rate of real growth in the economy was approximately 4.7 per cent extrapolated annually. This is a huge rate of growth. According to this morning's paper, the increase in real disposable income was projected to be in the range of 2 per cent. These are all good news items.

One of the results of a thriving economy is that the demands on the employment insurance regime are not as heavy as they might be under other circumstances, and this is a reason for all of us to be very pleased. In the face of this growth, employment insurance premiums have been reduced significantly over the last number of years. I do not have the figures in front of me but I can easily produce them, and I am sure that the honourable senator is aware that there has been a stage reduction. It is argued by some that that stage reduction has not taken place quickly enough, or that there should be further reductions now.

The Employment Insurance Commission, which sets the rates, has taken a somewhat different view. I believe they are acting, if I may say this, conservatively. However, we should give some credit to both the government and the economy for presenting us with this interesting challenge.

Senator Oliver: The honourable minister has, perhaps, pre-empted the Minister of Finance and given us an economic forecast.

However, my specific question dealt with the issue of reserves in the fund. If we have \$26 billion now and in the next fiscal year we will have \$30 billion, when is enough enough? What does the minister consider to be an adequate reserve? When can employers look forward to some relief?

Senator Di Nino: Real relief!

Senator Boudreau: Honourable senators, employers can look forward to ongoing relief, as they have in the past number of years. The federal government has provided consistent relief as the programs have moved forward.

What is an appropriate level of reserve? I cannot provide a specific answer to the honourable senator's question. It may depend on the economy at a given point in time. Other factors may be brought to bear. One would certainly wish to err on the side of caution in any event. I cannot give a personal view as to what the appropriate level should be. It is safe to believe that if the surpluses continue to grow, the government may very well consider further reductions.

TREASURY BOARD

AUDITOR GENERAL'S REPORT—AWARDING OF SOLE-SOURCE CONTRACTS—ESTABLISHMENT OF MANDATORY CONTRACT REVIEW MECHANISM

Hon. Marjory LeBreton: Honourable senators, the Auditor General, in his November 1999 report, specifically in Chapter 30, "Sole-sourced Contracting for Professional Services", took a close look at the government's practice of awarding sole-source contracts for professional services. These are contracts where the competitive process is bypassed in favour of a particular contractor. He also looked at the mechanism known as an Advance Contract Award Notice, or ACAN.

Honourable senators, contracts are supposed to be let through a competitive process; however, the rules are being bypassed in order to select a particular contractor. As the Auditor General reported:

The process of awarding most of the contracts audited in this year's sample would not pass the test of public scrutiny.

The figure is startling. The Auditor General found that nearly 90 per cent of the consulting contracts audited were improperly awarded.

Honourable senators, counting just those contracts that exceed \$25,000, sole-source contracts now represent some \$1.3 billion of government spending. Yet it is not at all clear what services are being provided. As well, the amount of work proposed by the contractor is seldom examined critically, and the ACAN posting rules are not followed properly. In addition, only a small number complied with the government contract regulation for justifying sole sourcing.

My question for the Leader of the Government in the Senate is: Why has the government rejected the Auditor General's recommendation that it establish a mandatory contract review mechanism within departments?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I think all of us would agree that under general circumstances the sole-source contract is not the most appropriate way to proceed. However, there are circumstances, as the honourable senator is aware, when a sole-source contract might be appropriate.

In this case, the Auditor General has given his view with respect to a number of selected contracts. I believe that he reviewed these contracts in some detail and felt that the appropriate guidelines were not observed in every case. I am confident that the minister involved will welcome the constructive comments of the Auditor General, and I expect that he will take them into account and act accordingly.

Senator LeBreton: Honourable senators, \$1.3 billion or 90 per cent is hardly "some". That is a new definition of "some", I must say.

Honourable senators, I will quote from the Auditor General again when he said:

Expanding on the permitted exceptions, or ignoring them, represents an unwarranted decision by individual officials to alter the balance of values the government has established to guide the conduct of its affairs.

May I remind you, honourable senators, that in spite of the fact that the 1993 Red Book promised to cut spending on professional and special services, this government has vastly increased its contracting out. As a matter of fact, on *This Hour Has 22 Minutes* last week the comment was made that the Red Book should have won the Governor General's award in the fiction category.

Again I ask: Why is the government unwilling to consider a mandatory contract review mechanism? Are they trying to protect their own power and influence over the recipients of these sole-source contracts?

Senator Boudreau: Honourable senators, the government, insofar as its Red Book is concerned, will be judged by the people of this country when the appropriate time arises.

Senator Lynch-Staunton: You will be there.

Senator Boudreau: I may be there.

Senator Lynch-Staunton: No, you will be there and, honourable senator, you will wish you were here.

We will be there, too.

Senator Graham: Will you be there?

Senator Lynch-Staunton: I will be there. Halifax Centre.

Senator Boudreau: Honourable senators, I understand more people may be seeking a nomination. It is an example I am not sure I would recommend.

Getting back to the question, I believe that the government will be judged by Canadians on its overall performance with respect to the Red Book promises. I do not think there is any rationale in the government to award contracts in any way other than in the best interests of the people of the country.

● (1400)

The minister will take seriously the comments made by the Auditor General. In fact, I am sure that all ministers involved will take very seriously the comments made by the Auditor General and his staff with respect to their departments, and his comments may prove to be very helpful.

Senator LeBreton: If contracts are issued in the interests of the public, there is no reason that we should not know about them.

Senator Boudreau: Honourable senators, the honourable senator has clearly expressed her concerns. It is recognized, by

every government that has been in office, that there are certain instances in which contracts must be awarded other than through the normal tendering system.

FINANCE

AUDITOR GENERAL'S REPORT—PROBLEMS OF UNDERESTIMATING BUDGET SURPLUS

Hon. Roch Bolduc: Honourable senators, my question is addressed to the Leader of the Government in the Senate. The Auditor General has pointed out a flaw in the government's policy of continuing to use overly prudent assumptions of economic growth and interest rates. He says that this approach was useful when there was a deficit in assuring financial markets that things were under control, but in times of surplus it biases the government toward heavy spending toward the end of the fiscal year.

The Auditor General says that since, with prudent forecasting, the surplus will likely be more than forecast:

By the time this becomes evident near the year end it is normally too late to affect the result through tax reductions, leaving increased spending as the most effective means of eliminating the excessive surplus. Each of the past two budgets contained significant new spending booked in the year the budget was tabled.

Honourable senators, the Auditor General goes on to say that this differs from the year-end spending that goes on in departments only in the sense that it involves billions rather than millions of taxpayer dollars.

Has the time not come for the government to rethink its approach of booking huge amounts of year-end spending for no reason other than to manipulate the size of the reported surplus or deficit?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I have read some of the comments to which the honourable senator refers. It has been a concern of the Auditor General that surpluses are being underestimated by government for one reason or another. One can ascribe whatever motives one chooses.

Upon hearing those remarks, I marvel at how times have changed. I can remember well when the criticism of the Auditor General, year after year, was that the government had overestimated revenues, blown the picture out of proportion, severely underestimated deficits and, as a result, fundamentally misled people. That was the practice in some jurisdictions, and it was a very dangerous practice.

Perhaps it is a fault from an accounting or management point of view to be too cautious in predicting surpluses. If so, it is one with which we can live more easily than the other extreme, which was the case for so long in this country.

[Translation]

Senator Bolduc: Honourable senators, the Leader of the Government is using the same tack as his colleague the Minister of Finance. Obviously, this year's budget surplus will be greater than what was announced in February 1999. Instead of keeping these funds, why does the government not lower taxes immediately, since it knows there will be a surplus?

[English]

Senator Boudreau: Honourable senators, projections have been made by various distinguished organizations and institutions in our country on how the economy will perform over a multi-year time frame and what the surpluses are likely to be over that same time frame. It has been popular to forecast surpluses for the next five years.

I agree with the Minister of Finance that, while such projections are useful for certain planning purposes, in terms of budgeting and planning government programs the time frame should be much shorter. Realistically, a two-year time frame may be pushing the limit of what you can reasonably deal with in terms of budget and program planning. I do, however, agree that if we are too cautious and there is a larger surplus than forecast, then it may not come into play immediately.

However, that being the case, it is a very small price to pay for the government's solid and cautious management of the country's business. This is a government that has consistently produced these surpluses and yielded economic growth throughout Canada, although admittedly not equally in every corner of the country. This economic growth has been unprecedented for about 20 years.

NATIONAL DEFENCE

AUDITOR GENERAL'S REPORT—IMPLEMENTATION OF DEFENCE ETHICS PROGRAM

Hon. Michael A. Meighen: Honourable senators, my question is directed to the Leader of the Government in the Senate. During the spring of 1998, the government in its advocacy of Bill C-25, the act to amend the National Defence Act, told Canadians that all recommendations pertaining to the Somalia inquiry had been implemented. Yet, the Auditor General states, in the part of the report relating to National Defence, first and foremost, that the defence ethics program has not yet been fully implemented. This program was a cornerstone of the government's Somalia inquiry.

Will the Leader of the Government acknowledge that the recommendations of that inquiry have not yet been fully implemented and indicate when we might expect them to be?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the minister and the department are working on the measure to which the honourable senator refers. The Auditor General's criticism was that it was not functioning as he thought it should. That is a valuable comment and is one

which the minister will take seriously in his attempts to speed up the implementation and make it more fulsome.

Senator Meighen: Honourable senators, I look forward to an early report that the program has been completed.

HERITAGE

DELAY IN BUILDING NEW WAR MUSEUM— PROTECTION OF ARCHIVED ART TREASURES

Hon. Norman K. Atkins: Honourable senators, my question is directed to the Leader of the Government in the Senate. Yesterday I asked the leader whether the government was seriously committed to the development of a new war museum. Is the government aware that Vimy House, which is bursting at the seams, is also subject to leaking roofs and poor ventilation and climate control, and that this endangers over 12,000 pieces of art, some of great value? Some of the art is by great Canadian artists such as members of the Group of Seven. The leader has probably not even heard of Vimy House, let alone aware of where it is. However, I recommend that he and all members of the Senate visit Vimy House.

What is the government doing to ensure that these national treasures are protected while it decides whether to finance a new Canadian War Museum?

• (1410)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I wish to give the honourable senator my personal undertaking that before the Senate resumes sitting in the new year, I will have visited Vimy House.

The matter that the honourable senator raises is a serious one. As he points out, it is not one with which I am familiar. However, I will certainly make some inquiries and undertake a personal tour.

NEW WAR MUSEUM—NATURE OF PRIVATE FINANCING

Hon. David Tkachuk: Honourable senators, my question concerns a comment on a similar subject made yesterday by the Leader of the Government in the Senate. It had to do with the comment on the necessity of private financing for the construction of the new Canadian War Museum. What kind of private financing was the minister talking about?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I was referring to the possibility of a private fundraising campaign to which the Canadian public would be asked to contribute.

Senator Tkachuk: Honourable senators, will that be undertaken by the Liberal Party of Canada, the Government of Canada, the veterans or, perhaps, people who profited from the war such as Winchester and Jeep? Perhaps the minister could inform us as to how this will happen.

I find it shameful that we are even talking about this matter. I know that members opposite do not have any shame when it comes to discussing matters like this. What we are really talking about is not having money to fund a new war museum, yet we spend money for other things, including \$1.3 million for contracts given to Grits across the country.

Senator Boudreau: Honourable senators, I take it that some portions of the honourable senator's question were not entirely serious in their content. We have a distinguished Canadian and a distinguished veteran who is directly involved, the Honourable Barney Danson, and his committee. I can presume that any effort to seek money from the Canadian public in support of this endeavour would necessarily involve someone such as himself.

Senator Tkachuk: Honourable senators, when Mr. Danson is asked how much money the Government of Canada has committed to it, what will he tell them?

Senator Boudreau: Honourable senators, I hope that, among other things, any fundraising which is undertaken with the Canadian public will indicate the commitment that I discussed yesterday. That is the commitment of the 20-acre Rockcliffe site, and certain other government commitments that will be made clear once that fundraising campaign is underway.

[Translation]

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore*: Honourable senators, the time allowed for Question Period is up. Is there leave to continue, honourable senators?

Hon. Senators: Agreed.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Your Honour has risen regarding an extension of time for Question Period. With regard to extending Question Period on Wednesday, I believe it should be our practice not to give leave. We should limit it to the time provided to ensure that we adjourn, as we intend to on Wednesdays, in time for committees to continue important work when the Senate rises, hopefully, at 3:30 p.m.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 16, 1999 by the Honourable Senator Sparrow regarding the possibility of further assistance to protect people against violence.

JUSTICE

POSSIBILITY OF FURTHER ASSISTANCE TO PROTECT PEOPLE AGAINST VIOLENCE

(Response to question raised by Hon. Herbert O. Sparrow on November 16, 1999)

A number of provincial jurisdictions have identified home invasions as an area of concern. This type of criminal conduct is of a serious nature and instils fear in members of the public, particularly the elderly. Recent media stories about incidents in Vancouver, British Columbia have focused attention on this type of criminal conduct.

The International Centre for the Prevention of Crime, based in Montréal, has defined home invasions as "a residential break and enter combined with the offence of robbery, that is, the theft of property via the threat and/or use of violence (at any time during the commission of the offence) or the use of an offensive weapon or an imitation weapon. Such offences against residential premises occur when the residents are home, and offender objectives include the theft of property, money, and illicit drugs."

In a report entitled "Canadian Crime Statistics, 1996," the Canadian Centre for Justice Statistics (CCJS) reported on the rate of incidence of home invasions. CCJS noted that compared to the total number of incidents of robbery and breaking and entering, home invasions are a relatively rare type of crime (only about 1 per cent of total break and enter offences involved a violent offence which would fit into the category of home invasion). CCJS also publishes reports on overall criminal justice trends. In its report, "Crime Statistics in Canada, 1998," CCJS indicated that across Canada police-reported crime rates decreased for the seventh year in a row in 1998, falling 4 per cent. The 1998 rate was the lowest since 1979. In 1998, robberies decreased for a second consecutive year, with a 3 per cent decline, breaking and entering decreased by 7 per cent, and the rate of violent crime declined by 2 per cent, the sixth consecutive year of decline.

At the February 25-26, 1999 meeting of Federal/Provincial/Territorial Deputy Ministers Responsible for Justice it was agreed that the matter of home invasions would be referred to senior officials for the development of potential legislative and non-legislative options to address home invasions. An options paper is presently under development. The National Crime Prevention Centre has commissioned a paper from the International Centre for the Prevention of Crime on "Effective Actions to Reduce and Prevent Residential Burglary and Home Invasion" which would assess the extent and magnitude of home invasions both nationally and internationally and discuss risk factors

and prevention best practices. This paper should be of assistance in the development of non-legislative, crime prevention strategies to address home invasions. British Columbia's Ministry of the Attorney General has crime prevention tips posted on its web site entitled "Protect Yourself from Home Invasions" and has announced the appointment of a specialized home invasions prosecutor and a \$100,000.00 reward for information leading to the arrest and conviction of those responsible for home invasions in Vancouver.

Under existing *Criminal Code* provisions, offenders convicted of robbery or break and enter of a dwelling house are subject to a maximum sentence of imprisonment for life. This maximum is a reflection that Parliament considers these offences to be of a very serious nature. Where a firearm is utilized in the commission of a robbery, a mandatory minimum punishment of imprisonment for four years will be imposed. The sentencing part of the *Criminal Code* provides guidance to courts sentencing offenders who have committed home invasions: section 718.1 of the *Criminal Code* requires that a sentence be proportionate to the gravity of the offence and the degree of responsibility of the offender; and section 718.2 of the *Criminal Code* requires courts to take into account any relevant aggravating factor (e.g., related criminal records and/or escalating patterns of convictions).

Recent court decisions addressing home invasions reflect these sentencing principles and objectives. Courts have been imposing stiff sentences for this type of crime. In *R. v. Matwy* (1996), 105 C.C.C. (3d) 251, a decision of the Alberta Court of Appeal involving an offender who had committed a home invasion robbery, the Court stated that "offences which strike at the right of members of the public to the security of their own homes and to freedom from intrusion therein, must be treated with the utmost seriousness." The Court observed that the Supreme Court of Canada has also recognized the sanctity of a person's residence and described this concept as one of the principles of the common law which has been in place since 1604. A number of Alberta court decisions have held that the **starting point** for sentences for home invasions should be eight years and that this offence warrants a higher starting point sentence than the offence of armed robbery of a bank or of a commercial institution. In *R. v. Fraser*, [1997] N.S.J. No. 1, the Nova Scotia Court of Appeal agreed with the principles articulated by the Alberta Court of Appeal. The Nova Scotia Court of Appeal emphasized that the offender's conduct was "a premeditated, planned attack on a vulnerable [83-year old female] victim conducted in an atmosphere of violence and intimidation." The Court noted

that it was "appropriate to consider the profound effect of a robbery of this kind ... on the victim. One's home, particularly for the elderly, is a place of security." In a recent British Columbia Supreme Court decision, *R. v. Bernier*, the offender who was a party to a home invasion was sentenced to fourteen years in prison. Bouck J. was reported as stating that "before the increased scourge of home invasions began to appear, the British Columbia Court of Appeal had set a range of four to nine years where robbery with a weapon was part of breaking and entering" but that "the situation is so urgent that I must depart from the standard range. ... In fixing a much higher sentence than usual, others may be deterred from committing home invasions in the future. The public will then be more secure in their homes."

ORDERS OF THE DAY

CIVIL INTERNATIONAL SPACE STATION AGREEMENT IMPLEMENTATION BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Stollery, seconded by the Honourable Senator Hays, for the second reading of Bill C-4, to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts.

Hon. William M. Kelly: Honourable senators, I am pleased today to have the opportunity to speak to Bill C-4. First, however, I wish to congratulate Senator Stollery for his competent and clear presentation of this bill.

Bill C-4 is required to provide the legislative base for Canada to meet its obligations under the Agreement Concerning Cooperation on the Civil International Space Station. As I understand it, the United States ratified the agreement in April 1998. Japan ratified it in November 1998. Germany and Norway have ratified the agreement already. Canada, the United Kingdom and other European countries have their ratification process underway with the objective of full ratification of the agreement by January 29, 2000. Only for Russia, consumed as it is by internal economic and political issues, is ratification not at the moment imminent.

As we all know, the making of international agreements in our system is the prerogative of the Crown. Parliament's approval is not required for the agreement *per se*; however, it is required to bring certain aspects of Canadian law into line with the agreement.

Given that it relates to an international agreement that has major implications for Canada in the economic, research and technology fields, and also given that the agreement goes into uncharted territory on several aspects, I suggest that Parliament might have been given more time to examine the bill, the agreement and their implications. In terms of entering uncharted territory, I have in mind, as but one example, the agreement's extension of the parties' criminal jurisdiction to outer space. The extension of criminal jurisdiction is found in Article 22 of the international agreement and is referred to in clause 11 of the bill before us today. I trust and hope that these matters will be carefully reviewed in committee — at least, I hope they will be more carefully examined and reviewed than they were in the other place.

Notwithstanding that situation, I believe that we should support enthusiastically principles of this bill. The legislation is necessary for Canada to assume its role as one of the partners in one of the largest scientific projects in history, namely, the international space station.

Honourable senators, although Canada's participation in the space station has been evaluated at around 2.5 per cent of the total cost, our role is to provide the mobile servicing system, or MSS, which will be a critically important part. As I understand it, the MSS will be used to assemble the space station and to maintain it throughout its lifetime.

The MSS consists of equipment and facilities to be located both on the space station and on the ground. The on-station elements will include the space station remote manipulator system, which is a sophisticated space arm, and its mobile remote servicer base system. Canada will also be providing the special purpose dextrous manipulator, which is a twin-armed robot. The Canadarm and the space station remote manipulator system will both be used for the assembly and maintenance of the space station during its projected 10-year life.

The ground facilities Canada will provide would include an MSS operations complex located at the Canadian Space Agency's headquarters in Saint-Hubert, Quebec.

The Canadian Space Agency has been an important catalyst for Canada's participation in the industry. Canada's space industry has become a major contributor to the Canadian economy. As Senator Stollery noted, it generates over \$1 billion in annual revenues, of which 30 per cent are exports. It generates over 5,000 jobs in more than 250 companies across Canada. It is an industry in which Canada's private sector has shouldered a strong role. The private sector invests approximately \$1 million annually in R&D efforts relating to space projects.

Canada's participation in the international space station project is forecast to cost \$1.4 billion, with a return on investment of

over \$6 billion and some 70,000 person years of employment across Canada.

The ISS will help advance us in telecommunications, especially in wireless telecommunications that are so important to Canada because of our geographic expanse and our many remote pockets of civilization. The ISS will advance earth observation technology, a \$2-billion and growing industry annually in which Canada has already established leadership through Radarsat.

Notwithstanding the importance of the space industry to the Canadian economy, in particular to the growth of the next-generation economy, government funding to the Canadian Space Agency has declined from \$378 million in fiscal 1993-94 to \$350 million in the current fiscal year.

I must say, honourable senators, that I hope this is not a signal of something that I sense happens from time to time. We tend to make agreements, commit ourselves to very important projects and then gradually dwindle down what was originally envisaged as being our contribution. I hope this decrease in spending is not a sign of that in this case.

I said earlier that I thought this initiative deserved our enthusiastic support. I say that not only because of the short-term economic benefits but for several other reasons as well. The ISS has no direct military role or capability. For example, it will have no launch capability for satellites or missiles. This guarantees the ISS is used for exclusively peaceful purposes.

The participation of Russia in the international space station is particularly to be supported and encouraged. Russia's experience with the MIR space station is of enormous benefit to this project. The Zvezda service module launched in October by Russia's aviation space agency will provide the early living quarters for the space station and control of the station until the arrival of the USS *Destiny*, sometime early next year. Russian Proton and Soyuz rockets are also an important part of the project. Although the Russian Parliament has not yet begun the process required for Russia to ratify the agreement, I understand that the Russian participation proceeds and will continue to proceed nonetheless.

From perhaps a more selfish perspective, Canada's contribution of the MSS gives us the right to use the station for scientific and technological research. Under Article 21 of the agreement, the results of all research conducted by each of the partners will be the intellectual property of the partner doing the research.

To ensure that Canada gets all it can out of this unprecedented opportunity, the Canadian Space Agency has established a micro-gravity science program to give Canadian researchers experience in designing and conducting experiments and equipment for space. The micro-gravity science program also provides funding for training and equipment development needed to conduct research in the space station. As a result, Canada will have a research and industrial capacity to utilize the space station to the full extent of its research and scientific capacity.

Finally, honourable senators, 40 years ago a young American president challenged us to explore the new frontier of space. When he did, the world lived in the shadow of the Cold War, in constant fear that earthly competition between the two superpowers would boil over into nuclear conflagration. President Kennedy saw the space race as just that, a race to obtain economic, scientific, military and ideological supremacy of one superpower over another.

How far we have come! In a century that began with terrestrial flight in its infancy, we have put man on the moon. We have sent probes to the outer reaches of space. We will soon place a microphone that will allow us to hear the sounds of Mars for the first time. We no longer stand on a new frontier, as President Kennedy said. We have now occupied that frontier and stand to reap its manifold benefits.

However, most important of all, through initiatives such as the international space station, and through a host of international agreements dealing with space, our occupation is not territorial, but is for the purpose of learning and of science to benefit all mankind. Our occupation is not with instruments of war, but with instruments of peace.

Honourable senators, in that spirit, I commend Bill C-4 to your consideration. I wish to remind you that at second reading our purpose is to accept or reject the principle of a bill. In that sense, we should approve this bill. I do, however, have a number of matters which deal with the substance of the bill, but these matters are more appropriately dealt with first in committee and then at third reading. I will be anxious to participate both at committee and during third reading, if necessary.

The Hon. the Speaker: If there is no other honourable senator who wishes to speak, it was moved by the Honourable Senator Hays, seconded by the Honourable Senator Moore, that this bill be read a second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

On motion of Senator Hays, bill referred to the Standing Senate Committee on Foreign Affairs.

ROYAL ASSENT BILL

SECOND READING—MOTION IN AMENDMENT—POINT OF ORDER—
DEBATE ADJOURNED TO AWAIT SPEAKER'S RULING

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable

Senator Kinsella, for the second reading of Bill S-7, respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(*Honourable Senator Cools*)

Hon. Anne C. Cools: Honourable senators, I rise to speak to Bill S-7. I had spoken to this bill's identical predecessor, Bill S-15, on June 9, 1998.

Honourable senators, I believe in Canada's Constitution, constitutional monarchy, its institutions and Her Majesty, Queen Elizabeth II. In this Senate, I took the Oath of Allegiance to Her Majesty. It is my sworn duty to uphold Her Majesty's rights and interests as the third constituent element of the Parliament of Canada. The Constitution Act, 1867, section 17 states:

There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Honourable senators, I thank the Honourable Senator Lynch-Staunton for this timely debate, more so with the outcome of the Australian referendum on the monarchy. On November 6, 1999, Australians voted 55 per cent to 45 per cent to maintain Queen Elizabeth II as their monarch. Bill S-7 is about Her Majesty's Royal Prerogative in respect to her Royal Assent to bills that have been passed by the Senate and the House of Commons. Its subject is this Royal Assent, which gives passed bills the force of law. Bill S-7 poses an important and pressing constitutional question. How can Royal Assent, the very action which gives a bill the force of law, itself become the subject of a bill which must then obtain that same Royal Assent to receive the force of law?

• (1430)

Honourable senators, the Royal Prerogative is the foundation of ministerial cabinet government and makes responsible government possible. The Royal Prerogative is so pivotal that the 1931 Statute of Westminster declared that any United Kingdom's alterations to the royal succession, style and titles must be agreed to by the Parliaments of the Dominions, of which Canada was one. The Statute of Westminster stated in part:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

Honourable senators, in September there were media reports about the outgoing Governor General Roméo LeBlanc's actions on the viceregal crest, its lion and the lion's tongue. The President of the Heraldry Society of Canada, B.C. Yukon Branch, Rean Meyer, wrote to the *National Post* on September 8, 1999. In this letter headlined "Ill-advised", he wrote:

Readers of the *National Post* should be aware of a few facts about the so-called viceregal crest. The crest in question is not Roméo LeBlanc's "official crest" as stated, but that of the Royal coat of arms used in Canada, commonly and erroneously referred to as the Canadian coat of arms. Similarly, this same crest cannot be correctly called a viceregal one because it is part of Her Majesty's arms in right of Canada, as borne out in the 1921 proclamation.

Continuing in his next line about another former Governor General's action in removing royal insignia at Government House, Mr. Meyer wrote:

The late Jeanne Sauvé, during her tenure as governor-general, rid Rideau Hall writing paper, flatware and Government House sentry boxes of the crown that had been used since Confederation. In its place she substituted what her minions described as the "viceregal lion", i.e. the crest that is the subject of Mr. LeBlanc's dissatisfaction. After adopting and discarding two personal coats of arms for her own use, Mme. Sauvé eventually settled on a version that included on her shield the same creature that has now lost both its tongue and its claws thanks to this governor-general's capriciousness.

Honourable senators, too often some ministers advocate ending the monarchy in Canada whilst they eagerly exercise their full ministerial powers of the crown under the Royal Prerogative powers that are not reviewed by Parliament. Others assert that the monarchy is undesirable in Quebec. Still others claim that the Royal Assent ceremony for bills is purely perfunctory, a mere formality, an ornament, saying that since Royal Assent is only a formality and an ornament, it is entirely unnecessary and wholly disposable. Some say that it is a total inconvenience and a nuisance to the House of Commons. It is simply too inconvenient for ministers to attend. It became too inconvenient for the Prime Minister to attend, then so for the ministers, then for the members, then, too, for the Supreme Court of Canada Justices. Humbug! Yet honourable senators attend Royal Assent faithfully in this, our own Senate, the House of the Royal Assent.

Honourable senators, I challenge those who assert that the Royal Assent is a mere formality. They are wrong. I say that their false or wrong assertion cannot by repetition become true or right. Benjamin Disraeli, United Kingdom Prime Minister in the late 1800's, in his 1852 book *Lord George Bentinck: A Political*

Biography described the true force and meaning of Royal Assent by the Queen. He wrote:

As a branch of the legislature whose decision is final, and therefore last solicited, the opinion of the sovereign remains unshackled and uncompromised until the assent of both houses has been received. Nor is this veto of the English monarch an empty form. It is not difficult to conceive the occasion when, supported by the sympathies of a loyal people, its exercise might defeat an unconstitutional ministry and a corrupt parliament.

Honourable senators, that is the true position, the true constitutional position, of Royal Assent in our constitutional monarchy of ministerial responsibility. Royal Assent is that parliamentary stage, and the only stage in our parliamentary legislative process, where Parliament as a whole, in its three constituent parts, comes together as the one Parliament of Canada in the enacting process of law-making, transforming measures into statute law. The Royal Assent is that quintessential act in our responsible ministerial government system known as the Queen in Parliament — that defining moment in the parliamentary law-making process. Royal Assent is no mere formality. It is a vital procedure. It is final and unshackled. It is the most visible act of the Queen in Canada, which since Confederation has been given in this Senate for sound constitutional reasons. Senators must protect the visibility of the Queen's actual role in Canada's Parliament and Constitution.

Honourable senators, this Senate is the House of Parliament. The Senate Clerk is the Clerk of the Parliaments. The Clerk of the House of Commons is the Under-Clerk of the Parliaments. Our lady Usher of the Black Rod is the Queen's personal messenger, who acts in that relationship between the Queen and the two Houses in the Queen's performance of her parliamentary functions. The constitutional functions of the whole Parliament of Canada can only be performed in this Senate House. The whole parliament assembles here for the Throne Speech, previously the Royal Speech. Until about 1947, Canada's Governor General held office in the East Block of these buildings. Until quite recently, the Governor General attended here in this Senate to prorogue and to dissolve Parliament — important parliamentary functions which were exercised visibly until administrative convenience drove prorogation and dissolution to the privacy and invisibility of Government House at Rideau Hall, concealed from public view, knowledge and understanding. Our country has been systematically deprived — robbed — of the knowledge and view of its own political language, culture and customs as the position of the monarch as the lynchpin has been diminished. Administrative convenience is no fit ground on which to found the dismantling of vital constitutional practices. Former prime minister Pierre Elliott Trudeau described the current Quebec nationalist strategy of "creeping independence", of "étapisme", the concept coined by the late Quebec Separatist Premier René Lévesque. In an October 8, 1998 *Ottawa Citizen* article "Shades of Duplessis", he described "étapisme" thus:

They want to take this power now, then that power, and eventually Quebecers will feel that they govern more from Quebec than from Ottawa and then they take the last step and do it all.

This same “étapisme” or gradualism is working on Canada’s monarchy: the certain removal of a departmental name here, an insignia there, a custom here and there.

Honourable senators, Senator Lynch-Staunton believes that his proposed alteration to Royal Assent requires a bill. He is correct. A bill is required for such a fundamental change to Her Majesty’s and the Senate’s constitutional order in Canada. He proposes a profound and fundamental change to the Senate constitution and to the longstanding constitutional role and practices of this Upper House as the House of Royal Assent and the House of Parliament. He would also alter the manner, form and style of Royal Assent itself, by which Her Majesty, the final and high constituent element of Parliament, gives agreement to bills passed by the other two constituent elements. The good senator proposes to alter Her Majesty’s Royal Prerogative in respect of her Royal Assent to bills. This alteration is a limitation. Bill S-7 is a limitation on the exercise of the Royal Prerogative in Royal Assent and, simultaneously, is a limitation on the constitution of the Senate. An alteration to the Royal Prerogative of this magnitude can only be undertaken by bill with due regard to constitutional practice, parliamentary law and usage.

Honourable senators, the law of Parliament is well established that any change to the Royal Prerogative by Parliament, any bill affecting Royal Prerogative, requires the Royal Consent prior to passage in Parliament. All the parliamentary authorities agree on this. About the Royal Consent, Alpheus Todd, in the 1892 edition of *Parliamentary Government in England, Volume II*, wrote:

• (1440)

Where the rights of the crown, its patronage or prerogative, are specially concerned...a special royal message...is necessary to signify that her Majesty is pleased to place at the disposal of parliament her interests, etc., in the particular matter.

About the Royal Consent, Beauchesne states at paragraph 726(1), 6th edition that:

The consent of the Sovereign (to be distinguished from the Royal Assent to Bills) is given by a Minister to bills (and occasionally amendments) affecting the prerogative, hereditary revenues, personal property or interest of the Crown.

Honourable senators, there is an example of étapisme of our monarchy. That very paragraph has been altered over time to delete the words “King”, “Queen” and “royal” from a previous Beauchesne paragraph 283(1), 4th edition. Étapisme, the certain, persistent deletion of the language of the constitutional monarchy of Canada.

Honourable senators, about the stage of proceedings for Royal Consent, Beauchesne paragraph 726(2), 6th edition states:

The Royal Consent is generally given at the earliest stage of debate. Its omission, when it is required, renders the proceedings on the passage of a bill null and void.

About Royal Consent and second reading, Beauchesne paragraph 727(1), states in part:

The consent of the Crown is always necessary in matters involving the prerogatives of the Crown. This consent may be given at any stage of a bill before final passage; though in the House it is generally signified on the motion for second reading.

Honourable senators, Her Majesty’s advisors, government ministers, privy councillors, acting under responsibility, are constitutionally competent to obtain the Royal Consent. Consequently, during consideration of a bill affecting the Royal Prerogative, they can be expected reliably to signify the Royal Consent.

However, for a private member the situation is quite different. For a private member on the opposition benches, the situation is also interesting. If that opposition member’s bill is supported by the government, then the situation would be constitutionally peculiar, for Her Majesty’s ministers, her pre-eminent advisors, by declining legislatively and parliamentarily to uphold and defend Her Majesty’s prerogative, would imperil that very prerogative from which they derive their ministerial authority, power and pre-eminence. That could have the makings of a constitutional crisis. My point here, however, is private members, and their position in respect of their bills to alter the Royal Prerogative.

Honourable senators, the necessary communication to obtain Her Majesty’s Royal Consent was confirmed by the fourth report of the Standing Committee on Privileges, Standing Rules and Orders, introduced in the Senate on November 6, 1985. I believe that committee was chaired by Senator Gildas Molgat. The report’s recommendation No. 3 said, at page 1469:

That representatives of the Senate meet with representatives of the House of Commons to draft a resolution for a joint Address of both Houses to be presented to Her Excellency the Governor General, praying that she approve such changes to the Royal Assent ceremony as described in this Report.

The operative words are “address” and “praying that she approve”.

All authorities agree that the House must receive Royal Consent for any bill which alters the Queen’s Royal Prerogative before it is passed in that House. The Royal Consent is required by the law of Parliament. Failure to obtain that consent will invoke the law of Parliament to withdraw the bill.

Honourable senators, about the position of private members and their obligation to the House on like bills, Alpheus Todd, in the work already cited, wrote that:

This intimation should be given before the committal of the Bill. But where a public bill of this description is proposed to be initiated by a private member, and not upon the responsibility of ministers, the House ought to address the crown for leave to proceed thereon, before the introduction of the same...

Honourable senators, Senator Lynch-Staunton has placed this bill before us three times in as many years, S-15, S-26 and now S-7. At no time has he indicated how he intends to proceed to seek and obtain Her Majesty's Royal Consent for this house, an absolute prerequisite to Senate consideration and passage of this bill. Senator Lynch-Staunton has a duty to move an address to Her Majesty the Queen asking her agreement to our consideration of this bill. It is on such motion for that address that the public and parliamentary debate will ensue.

MOTION IN AMENDMENT

Hon. Anne C. Cools: Having said that, honourable senators, I should like to move an amendment to the motion. I move:

That Bill S-7 be not now read a second time, but be read a second time when its sponsor fulfills the condition required by the law of Parliament that is necessary and preliminary to the passage in Parliament of a private member's bill altering the Royal Prerogative, that preliminary condition being the signification of Her Majesty's Royal Consent to Parliament's consideration of Her Majesty's interests in Bill S-7's proposed limitation and alteration to the manner, form, and style of Her Majesty's Royal Assent in Canada, which is simultaneously an alteration to the constitution of the Senate.

Hon. Eymard G. Corbin: Honourable senators, I wonder if I may be allowed a question and a comment arising out of the speech made by Senator Cools.

She referred at one point in her remarks to the staff of the residence or the office of the Governor General as "minions".

Senator Cools: As what? I have never done that.

Senator Corbin: You said that.

Perhaps I should quote from the Concise Oxford Dictionary, 9th edition, the meaning of the word "minion". It is a noun and it is usually used in a derogatory fashion to mean, first, a servile agent; a slave; second meaning, favourite servant, animal; third meaning, a favourite of a sovereign, in the sense of the French "mignon".

Our parliamentary practice always prohibited slanderous remarks on the person of the Queen and the Governor General.

Surely, this ought to extend to the house staff of Her Majesty or, indeed, the Governor General. I am sure Senator Cools went beyond her thoughts when she used that word. It is not for me to tell her or to remind her about the propriety of the use of such terms, but the meaning is clear in the minds of everyone.

I wonder if Senator Cools would not want to withdraw that word. In the same way that we would not wish to use that adjective with respect to our own staff here in the Senate. I do not think we should speak of the staff and servants of the residence of the Governor General with that kind of bias.

Senator Cools: Honourable senators, I should like to thank Senator Corbin for his particular question. I should like to point out that his question and his allusion to me is mistaken and very wrong.

I should like to say very clearly to all here in this chamber that I am probably the greatest supporter in this chamber that the monarch and the Governor General have. I should like to make it quite clear that those words were not my words.

Senator Stratton: Are you demeaning the rest of us?

• (1450)

Senator Cools: If you would like to take the floor, you are quite welcome.

Those words were not my words. As I said before, they were the words of a Mr. Rean Meyer, President of the Heraldry Society of Canada, British Columbia Yukon Branch. I was reading to honourable senators from a letter that Mr. Meyer wrote to the *National Post* on September 8, 1999.

Should Senator Corbin like a copy of that newspaper article, I would be happy to provide it to him so that he can examine it and see that those words were the words of the author of the letter and not mine.

I would like to make it crystal clear that I am so strongly committed to the office of the Governor General that I would love to have the Governor General come here every time Royal Assent is required. The purpose of my words today are to encourage the Governors General of Canada to exercise their full powers as the personal representative of Her Majesty the Queen.

This bill has its supporters, as it certainly has its opponents. I am told that there are some former governors general who are not entirely happy with some of the proposals in this bill.

I again thank Senator Lynch-Staunton for bringing forward this debate because Royal Assent is a matter of the constitution of this place. When I came to this place, I took an oath to be loyal to Her Majesty and I swear to God that I intend to be. That is exactly what I am doing at this moment.

Senator Corbin: Honourable senators, in pursuance of the point I raised with Senator Cools, she should not mistake my attitude.

[Translation]

She made me feel very receptive to her point of view.

[English]

Nevertheless, we must choose our words carefully. There have been interpretations from the Chair in the other place from time to time that you cannot do indirectly what is directly prohibited. When one quotes from a newspaper article or letter from anyone who is not a player in a debate, that quote becomes your quote. Although it was Mr. Meyer who wrote it, it was Senator Cools who proffered that word in the Senate. In my view, it is derogatory and unfair because the people who are targeted with this word are either dead or retired and cannot defend themselves in this place, and we must respect that fact and choose our words more carefully.

Senator Cools may do what she wants with this, but I do not think it adds to the weight of her thesis. In fact, I think it diminishes the entire debate.

Senator Cools: Honourable senators, I have not been able to glean, in anything that Senator Corbin has said, what his question to me is, but as an act of graciousness on my part I will decline to respond to what he has said.

POINT OF ORDER

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order. I should like the Speaker to take this motion under consideration and then rule it out of order. There is nothing in the bill which affects the Royal Prerogative or Royal Assent. The bill only suggests that the traditional ceremony, which is not legislated, be kept, and, as an alternative, Royal Assent be given through a message. Her Majesty's Prerogative, Royal Assent, the constituent third part of Parliament, would remain exactly the same. The bill is only suggesting that there be two methods of Royal Assent, with the one which we now practice being utilized at least twice a year.

I believe that this motion goes way beyond the bill. It touches on issues which the bill does not even hint at; that is, the Royal Prerogative. Therefore, I ask that the Speaker rule it out of order.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I was intending to move the adjournment of the debate. However, Senator Lynch-Staunton has requested a ruling and I am not sure whether it is appropriate to adjourn the debate in the face of such a request. If it is, I will so move.

The Hon. the Speaker: Honourable senators, a point of order has been raised. The normal practice is that the Speaker hears others who wish to speak to the point of order. At the point at which the Speaker believes that enough information has been provided, the Speaker may rule or take the matter under advisement.

I will hear other senators who wish to speak to the point of order.

Hon. Sharon Carstairs: Honourable senators, I agree with the Honourable Senator Lynch-Staunton's point of order. The bill presently before us, which bill I support, has resulted from a practice of this chamber, and it is simply that. It is a tradition that has evolved. It has nothing to do with the Royal Prerogative. There must still be a means by which the Governor General, and therefore the Queen, appropriately gives assent to a piece of legislation. The bill deals with the process by which that assent will be given.

From my interpretation, there is no violation whatsoever of the prerogative. I believe that the intent of this bill is to stop a practice which has been happening in this chamber with neither the Governor General nor members of the House of Commons in attendance.

• (1500)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the point of order, it seems to me that the motion in amendment that has been introduced is out of order because it threatens the very liberty of members of this house to come forward with a motion.

We have a series of safeguards built into the house procedures. A notice must be given so that honourable senators know ahead of time what proposal will be advanced by an honourable senator. Any precondition imposed upon the liberty of the legislature or of a parliamentarian to introduce into the public debates of either House of Parliament must be explicitly provided for in the rules.

There is no rule that places hoops through which an honourable senator must go before he or she may introduce a motion. The motion in amendment before us states in clear language that it is only when the sponsor of Bill S-7 fulfils certain conditions. I find that to be the issue at the heart of the point of order that is before the Speaker at this point in time.

We must be very careful in maintaining the liberty of all honourable senators not to be fettered by conditions other than those conditions that we would set down in order to facilitate the proper order and running of this house. The condition that is imposed here, in the plain language of the motion in amendment, is a form of censorship, in that it provides some kind of review or a set of hoops through which an honourable senator would have to go before he or she could make a motion.

Rule 2 of the *Rules of the Senate* reads:

"Bill" means a draft Act of Parliament and includes a private and a public bill;

This fits that definition, and there is nothing else in the rules under which this motion in amendment, in my view, respectfully submitted, falls.

Hon. Anne C. Cools: Honourable senators, I should like to respond. Without restating everything that I have said in my remarks, I would ask that, in consideration of this point of order, my entire speech and the points that I have raised and the authorities that I have cited be included in His Honour's consideration.

Before I go on to try to respond to what Senator Lynch-Staunton has said, to my mind he has raised no valid point of order. As a matter of fact, he has not shown us in any way why there is a point of order. I would caution honourable senators about the process of using points of order to withdraw important questions from debate. I am not saying that that is what Senator Lynch-Staunton is doing; nor do I believe that to be his intention. However, I do believe that Senator Lynch-Staunton, if he is raising a point of order, has some duty to show us his reasoning and to cite some of the precedents and authorities upon which he is relying. From what I have heard and from what Senator Lynch-Staunton has said, that is not so at all.

My amendment is a good amendment. I am not speaking at all to the substance of the bill or to the merits or the contents of the bill in and of itself, as Senator Carstairs did. Senator Carstairs was speaking as a supporter of the bill on the substance and the merits of the bill.

The question before us right now is a point of order. I am sure that all honourable senators know, as does His Honour, that in point of fact questions of the Constitution and questions of constitutional law are not matters to be properly decided by the Speaker of the Senate. These are matters that should be left to the whole chamber.

My amendment is clear on the face of it. I have given my copy of it to Senator Lynch-Staunton. I did not say that there should be any limitation on him. I said, essentially, that it be read at a time when Senator Lynch-Staunton has proceeded in the proper way and manner that has been laid out for centuries in what we shall call the law of Parliament. I cited the report from Senator Molgat's committee, which showed clearly that an address to the Crown is the traditional way in which the consent of Her Majesty is obtained.

Honourable senators, what is not before us in this point of order is the question of whether or not Senator Lynch-Staunton has a right to do what he is doing. What is before us is whether or not he is proceeding in a manner that is consistent with the Constitution of this place and the Constitution of this country and with the law of Parliament and with the interests of Her Majesty the Queen.

These issues have been debated quite extensively. I will put on the record one of the most definitive statements ever made on this particular matter. This statement was made in the House of Lords on March 30, 1911 by Lord Lansdowne. Honourable senators may recall that there was a landmark debate at that time. If honourable senators could be reminded, the issue at the time in the U.K. was the alteration of the powers of the Lords and Her Majesty in respect of Royal Assent for bills that were passed in

the House of Commons. As an outcome of those debates, the question was settled in England by the Parliament Act. If what is called a "money bill" was passed three times in the House of Commons but was rejected in the Lords the second time around, it would be declared a law. It was a very important debate, honourable senators, and I would have expected Senator Lynch-Staunton to come forward with some of the history and precedents. For the time being, I will quote Lord Lansdowne. He said:

...seems to us to suggest that it is certainly a breach of the law of Parliament to pass through either house a bill affecting the prerogative of the Crown without the assent of the Crown.

Honourable senators, the Royal Consent is the assent in advance. He continued:

I do not think anyone will dispute that. We also conclude from these precedents that although this assent may be signified at any stage, it is the proper course to obtain it before the introduction of the Bill.

The citation that I used in my previous speech clearly goes to the point that it has been agreed that the proper thing that should be done is that the Royal Consent should be obtained before the introduction of the bill. All the authorities go on to say that it may be obtained, especially by ministers acting under responsibility, at a later phase.

It is unmistakably clear and cannot be disputed that this debate has been going on for quite some years. We have heard no indication whatsoever from Senator Lynch-Staunton about how he intends to satisfy the Royal Consent. One can try to articulate things in any particular form or fashion; however, the fact of the matter is that any parliamentary action or any parliamentary bill that is proposing to alter Her Majesty's Royal Prerogative must obtain her Royal Consent, which is another way of saying "the assent in advance."

• (1510)

That sort of custom, honourable senators, is also replicated in another area of Royal Prerogative, namely, the financial initiatives of the Crown. In the instance of the Royal Recommendation, it is more difficult. That is mandated by sections 53 and 54 of the BNA Act, 1867. That recommendation must be given in the House of Commons before the bill is introduced. On the particular issue of the Royal Consent, it can be given later.

However we cut it, honourable senators, the fact of the matter is that one cannot convincingly and credibly believe that we can have a discussion in this chamber about the future of Her Majesty's powers in respect of Royal Assent without consulting the Governor General or Her Majesty herself. The fact that this point has been slighted, diminished and overlooked for the past couple of years is precisely the reason I introduced this amendment to the motion for second reading, so that the debate can arise as to whether or not a Royal Consent is necessary.

It would seem to me that it would take more than an assertion by either Senator Carstairs or Senator Lynch-Staunton that it is unnecessary. At least I have placed the precedents and the history on the record, and I have many more references, should the debate continue. We are being very naive in this country today, especially in light of what has happened in Australia, with an increased strength and sense of monarchy among many of us in this country. We must be crystal clear that Her Majesty the Queen of England and her representative have not placed Her Majesty's interests —

The Hon. the Speaker: Order! Honourable Senator Cools, I interrupted you because I felt that you were going to the substance of the bill but not to the point of order that was raised.

Do any other honourable senators wish to speak to the point of order that was raised?

Senator Lynch-Staunton: Honourable senators, this bill does not alter the Royal Prerogative, which this motion assumes. Royal Assent is left untouched. No one in this chamber would dare challenge it. That is not for us. It is a constitutional requirement, which we respect. The bill merely suggests that Royal Assent be expressed in a different way as an alternative to the present one, while keeping the present practice. Therefore, I feel that the whole premise of this motion is completely out of order and should be so ruled.

The Hon. the Speaker: Does any other honourable senator wish to speak to the point of order? If not, I will take the matter under advisement.

Debate adjourned to await Speaker's Ruling.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Motions:

Hon. Lorna Milne, pursuant to notice of November 25, 1999, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Wednesday, December 1, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I will not repeat what I said here on more than one occasion. If I object to these types of motions, my finger is not pointed at the chairman of any committee. Actually, I sympathize with them because they are stuck with a schedule that forces them to meet at 3:30, which is what the schedule says for Wednesdays. Four committees are stuck with this schedule,

including Foreign Affairs, Banking, Social Affairs and Legal and Constitutional Affairs. Not to say that other committees are of lesser importance, but these are some of the most active committees. Someone has imposed on them a schedule to meet at 3:30, knowing full well that on more than one occasion recently we have gone beyond the 3:30 hour on Wednesday and have sat until 5:00 or 6:00. Consequently, they must come repeatedly back to the Senate to ask for an exemption. Why can someone not revisit the committee schedule and tailor it to the schedule of the Senate rather than ask the Senate to tailor its schedule to that of the committees? It is as simple as that. I sympathize with Senator Milne. Senator Kolber is about to ask for the same permission, and I understand why. It is our fault, because we have accepted a schedule that is not working properly.

We should honour our schedule here and decide that on Wednesdays we will adjourn at 3:30 no matter what. I wish to remind honourable senators that we started 1:30 sessions on Wednesdays to allow committees to meet from 3:30 onwards. We were to make up the short day of Wednesday on a Monday evening. That was the agreement at the time. Now, we seldom sit on a Monday evening, but we still aim for a short Wednesday. This system is not working. During the break, I hope that someone will come up with a more realistic schedule than the one we have now.

Again, I will state my frustration, which, I believe, is shared by many. I suggest strongly that when we come back in February, if alterations have not been made, leave will be refused in order to force an alteration to this schedule, which, obviously, is not working.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I rose the last time we heard from Senator Lynch-Staunton on this issue, and I rise again. I do not disagree with him. In fact, I understand his point very well.

As Deputy Leader of the Government in the Senate — and, I think I have cooperation from the other side on this — we are attempting to make the schedule work better. Whether or not we will succeed, I do not know. However, I accept Senator Lynch-Staunton's suggestion that we take advantage of the break to revise our sitting schedule, if necessary, so that we will not have this conflict between meetings of committees and sittings of the Senate, which puts both of them at a disadvantage.

The Hon. the Speaker: It was moved by the Honourable Senator Milne, seconded by the Honourable Senator Taylor:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 3:30 p.m. on Wednesday, December 1, 1999, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO MEET
DURING SITTING OF THE SENATE

Hon. Leo E. Kolber: Honourable senators, first, I wish to thank the Leader of the Opposition for his remarks. We are just poor senators working in the trenches and we take our orders.

With leave of the Senate and notwithstanding rule 58(1), I move:

That the Standing Senate Committee on Banking, Trade and Commerce have power to sit at 3:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

• (1520)

**ENERGY, THE ENVIRONMENT
AND NATURAL RESOURCES**

MOTION TO AUTHORIZE COMMITTEE TO REVIEW CANADIAN
ENVIRONMENTAL PROTECTION ACT—DEBATE ADJOURNED

Hon. Mira Spivak rose pursuant to notice of motion of November 2, 1999:

That the Senate urge the Government to begin immediately its review of the Canadian Environmental Protection Act and to designate the first phase of that review to the Standing Senate Committee on Energy, the Environment and Natural Resources.

She said: Honourable senators, I ask leave to amend my motion so that it reads as follows:

That the Standing Senate Committee on Energy, the Environment and Natural Resources begin immediately a review of the Canadian Environmental Protection Act as unanimously recommended in the committee's seventh report dated September 8, 1999 and tabled in the Senate the following day.

The Hon. the Speaker: Is leave granted to amend the motion as moved by Honourable Senator Spivak?

Hon. Senators: Agreed.

Senator Spivak: I move the amended motion standing in my name.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion as amended?

Senator Spivak: Honourable senators, this motion urging the government to begin immediately a review of the Canadian Environmental Protection Act was not my preferred way of doing things nor the preferred way of senators on this side of the chamber. We wanted an opportunity to fix a bill that was badly flawed before it was passed. Unfortunately, we could not improve Bill C-32. We faced closure twice, in committee and here in the Senate. It was not even possible to ensure that the law had the same meaning in French and in English in a particular clause.

Senators opposite proposed in their majority report that the government begin the next review immediately after the passage of Bill C-32. This will ensure that Canadians from across the country have the opportunity to express their views and to monitor the progress the minister makes in carrying forward and further defining concepts, such as "cost-effective", "virtual elimination", "intergovernmental environment agreements", and "precautionary principle".

In our minds, that is no way to run a railway — to let the train out of the station and then have the engineer come back to tell you where it is going. We have a duty to know the meaning behind those concepts and to ensure that the law clearly states those meanings so that Canadians everywhere can understand.

We heard an impassioned plea from a former public servant who asked us not to leave undefined the term "cost-effective." We were asked not to leave public servants twisting in the breeze when they try to enforce the law to protect public health and the environment.

Senators opposite wanted to do things differently, so here we are with their suggestions. Frankly, part of what they suggested just cannot be done. The five-year review, according to section 343, must be a comprehensive review of the act's provisions and its operations. We cannot review where the train has travelled before the journey has begun, but we can review the engineer's trip plan. We can look at how the minister intends to implement this act. As the committee's majority suggested, we can give Canadians from across the country the opportunity to express their views first and monitor the progress later.

Frankly, we think the environment minister will have a problem fulfilling even these requirements of the Canadian Environmental Protection Act. Take, for example, the requirement to finish, within seven years, the categorization of every one of the 23,000 substances on the domestic substances list, which was compiled in the late 1980s. That requires addressing nine substances a day, 365 days a year, or more than 13 substances per day accounting for holidays and weekends. How is that feasible?

Presumably some of those 23,000 substances are no longer in use and it will be a paper chase to discover them. For those still in use, the minister has two choices. First, he can instruct his officials to categorize them for persistence, bioaccumulation and their inherent toxicity. That is their potential to cause cancer, birth defects and genetic disorders, or to impair immune systems or to disrupt endocrine systems. Next, officials can try to do the tougher part of the job — obtaining the data that establishes whether exposure to a substance at a given concentration over a given period of time injures people or the environment. In many cases, including some of the few dozen substances on the priority substances list, exposure data is very hard to come by. For that reason alone, several substances have not been regulated.

The minister's second option is to lump these steps together and bog down the process. I am informed that, unless he chooses that option, some industries are preparing to take the minister to court. It would not be in their interests for officials to cast their chemicals as inherently toxic. I am sorry that this is kind of abstruse, but it would take a long time to explain all the different arguments and the different explanations that we really had during the course of the bill. I hope you will take my word for this kind of categorization.

Which will it be? A process that is feasible or a process that some industries favour. It would be helpful to all concerned to have a parliamentary committee hear how the department plans to deal with this monumental task, something that is of utmost importance to Canadians. It is quite technical and quite difficult. Committee members could do a useful job even in exposing the difficulties here.

It would also be helpful to have the minister set out his plan to achieve virtual elimination. Our committee received the memo in which one of his senior officials wrote that virtual elimination, under the new bill, would be impossible to achieve. We would like to know exactly how the minister plans to try to make it work. It is important to Canadians, and to none more than to those in the North.

The Canadian model is being touted at negotiations towards a global treaty on persistent organic pollutants. Without a strong, persistent, organic pollutants treaty, the Canadian Arctic will continue to be the world's worst toxic waste dump for PCBs, DDT-breakdown products and other airborne, persistent, bioaccumulative chemicals. Therefore, when the POPS treaty delegates meet next March in Bonn, the minister should be prepared to have the Canadian model ready for scrutiny. Before that time, we should have done our work and given Canadians a chance to express their opinions.

I suggest that this immediate review take place before our Senate committee for very practical reasons. First, the committee in the other place has a full slate. It has yet to complete a review of the system dealing with pesticides. The minister has promised major legislation on endangered species and, with any luck, we should see some movement on climate change. Our committee does not have a huge backlog of bills to consider at this time.

Second, it was our committee that faced closure and our committee that proposed that the review begin post-haste.

Third, the committee in the other place dealt with the Canadian Environmental Protection Act, off and on, for six years. They fought the good fight and, in the end, were overruled by a government that listened to industry lobbyists. It would be fair to say that their efforts were exhausted, at least for a while.

On this side, our long-term objective is still to improve the legislation. We should like, among other things, to remedy the fact that the legislation does not require the government to take steps towards phasing out even a handful of the worst toxic pollutants. This is harmful to all Canadians but especially to northerners.

The act does not require the government to follow a precautionary principle that means much of anything. In fact, it has contradictory meanings in our two official languages. It excludes the Métis from a new national advisory committee. It does not recognize the voluntary efforts of responsible private-sector corporations. It does nothing to deal with particular concerns about children's environmental health. It reduces the authority of the environment minister and hands over decision-making to the Governor in Council, especially on matters involving products of biotechnology.

• (1530)

It also removes the authority from the Environment Minister to examine the harmful effects of biotech products. On that last point, hopefully, the government is having second thoughts about reintroducing Bill C-80, the proposed food act. Public interest groups, as well as many scientists within the Department of Health, objected to cabinet overtaking the authority of the Minister of Health and his duty to protect Canadians.

I hope that the bill will be redrafted for the better. We had hoped to spend many more hours in committee before the revised bill became law. However, that did not happen and is now past history. We invite senators opposite to support their own recommendation and to call for an uncensored Canadian Environmental Protection Act review before our committee as soon as possible.

Hon. Dan Hays (Deputy Leader of the Government): Would the Honourable Senator Spivak accept a question?

Senator Spivak: Yes.

Senator Hays: The honourable senator's motion in its original form urged the government to take certain action. We have agreed that it be varied to the much stronger reference for a full study by the committee that the honourable senator chairs. Is this something that the committee has discussed? In other words, in the normal course, work of this nature originates usually from the committee pursuant to its discussions and desire to undertake a special study. Is that the case with respect to this matter?

Senator Spivak: No, that is not the case, as the Honourable Senator Hays well knows. This refers to prior business passed by the committee during its review of CEPA. Of course, if the Senate makes a reference to the committee, I think the committee would need to consider it and how it fits in light of its timetable.

We are talking about beginning a review. The last review took five years. We have before us some years left, I hope, before the next session of Parliament. It seems to me that there is a large time frame to accommodate what was passed by the committee during the last review. It is on that basis that I am making the case as to why our committee should begin this review rather than a committee of the other place which, as honourable senators know, has many other things to consider before they reach us.

Senator Hays: Honourable senators, I was not aware that the motion had not been a matter of discussion in the committee. Is this something that the Honourable Senator Spivak could raise with the committee as a whole and advise us as to its desire or lack thereof to conduct the study?

Senator Spivak: Perhaps the proper thing is to have someone adjourn the debate.

On motion of Senator Taylor, debate adjourned.

BUSINESS OF THE SENATE

POINT OF ORDER

Hon. Eymard G. Corbin: Honourable senators, earlier this afternoon, I rose on a matter of what I thought was unparliamentary language. I was advised by the honourable senator in question that, perhaps, I should read the record before coming to any conclusion. The intention is behind those words.

I wish to quote from *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, paragraph 485(1), which states:

Unparliamentary words may be brought to the attention of the House either by the Speaker or by any Member. When the question is raised by a Member it must be as a point of order and not as a question of privilege.

I wish at this time to reserve my right with respect to what I consider unparliamentary language to have an opportunity to examine the record and to come back to this matter at a subsequent sitting of the Senate.

The Hon. the Speaker: Honourable senators, the Honourable Senator Corbin has in effect raised a point of order to be deferred. As we all know, the rules on points of order state that they must be brought up at the first opportunity available. The honourable senator has done so today.

Is it agreed that he may proceed tomorrow based on the reading of the text?

Some Hon. Senators: Agreed.

Senator Cools: No.

The Hon. the Speaker: The Honourable Senator Cools objects.

Senator Corbin: I heard a "no" from a person who is not in her seat.

The Hon. the Speaker: I have no agreement to entertain the motion to defer until tomorrow.

Senator Corbin: May I suggest, Your Honour, in view of the words of the citation that, "Unparliamentary words may be brought to the attention of the House either by the Speaker or by any Member" that you take it upon yourself to rule on this matter?

The Hon. the Speaker: This is a proper point of order. I have been asked by an honourable senator to have a look at the text and to decide whether the rules have been offended. I undertake to do so.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO STUDY MATTERS RELATED TO MANDATE

Hon. Mira Spivak, pursuant to notice of November 24, 1999, moved:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources, in accordance with rule 86(1)(p), be authorised to examine such issues as may arise from time to time relating to energy, the environment, and natural resources generally in Canada; and

That the Committee report to the Senate no later than March 31, 2000.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO ENGAGE
SERVICES AND TRAVEL—DEBATE ADJOURNED

Hon. Mira Spivak, pursuant to notice of November 24, 1999, moved:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it; and

That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

On motion of Senator Hays, debate adjourned.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Mira Spivak, pursuant to notice of November 24, 1999, moved:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, December 1, 1999

PAGE

PAGE

SENATORS' STATEMENTS

World AIDS Day

Senator Cohen 315

The Francophonie

Senator Gauthier 315

RCMP Inspector Robert Upshaw

Tribute on Promotion. Senator Ruck 316

ROUTINE PROCEEDINGS

Canadian District of the Moravian Church of America

Private Bill to Amend Act of Incorporation—
Presentation of Petition. Senator Taylor 316

The Estimates, 1999-2000

Notice of Motion to Authorize National Finance Committee
to Study Estimates. Senator Murray 316

National Finance

Notice of Motion to Authorize Committee to Permit
Electronic Coverage. Senator Murray 316

Notice of Motion to Authorize Committee to Engage Services.
Senator Murray 316

QUESTION PERIOD

Foreign Affairs

Cost Overruns in Capital Expenditures on Embassies Abroad.
Senator Stratton 316
Senator Boudreau 317

Human Resources Development

Appropriate Level of Reserve in Employment Insurance Fund.
Senator Oliver 317
Senator Boudreau 318

Treasury Board

Auditor General's Report—Awarding of Sole-source Contracts—
Establishment of Mandatory Contract Review Mechanism.
Senator LeBreton 318
Senator Boudreau 318

Finance

Auditor General's Report—Problems of Underestimating
Budget Surplus. Senator Bolduc 319
Senator Boudreau 319

National Defence

Auditor General's Report—Implementation of Defence
Ethics Program. Senator Meighen 320
Senator Boudreau 320

Heritage

Delay in Building New War Museum—Protection of Archived
Art Treasures. Senator Atkins 320

Senator Boudreau 320

New War Museum—Nature of Private Financing.

Senator Tkachuk 320

Senator Boudreau 320

Business of the Senate

Senator Hays 321

Delayed Answer to Oral Question

Senator Hays 321

Justice

Possibility of Further Assistance to Protect People Against Violence.
Question by Senator Sparrow.

Senator Hays (Delayed Answer) 321

ORDERS OF THE DAY

Civil International Space Station Agreement Implementation Bill (Bill C-4)

Second Reading. Senator Kelly 322
Referred to Committee. 324

Royal Assent Bill (Bill S-7)

Second Reading—Motion in Amendment—Debate Adjourned
to Await Speaker's Ruling. Senator Cools 324
Motion in Amendment. Senator Cools 327
Senator Corbin 327
Point of Order. Senator Lynch-Staunton 328
Senator Hays 328
Senator Carstairs 328
Senator Kinsella 328
Senator Cools 329

Legal and Constitutional Affairs

Committee Authorized to Meet During Sitting of the Senate.
Senator Milne 330
Senator Lynch-Staunton 330
Senator Hays 330

Banking, Trade and Commerce

Committee Authorized to Meet During Sitting of the Senate.
Senator Kolber 331

Energy, the Environment and Natural Resources

Motion to Authorize Committee to Review Canadian
Environmental Protection Act—Debate Adjourned.
Senator Spivak 331
Senator Hays 332

Business of the Senate

Point of Order. Senator Corbin 333
Senator Cools 333

Energy, the Environment and Natural Resources

Committee Authorized to Study Matters Related to Mandate.
Senator Spivak 333
Committee Authorized to Engage Services and Travel—
Debate Adjourned. Senator Spivak 334
Committee Authorized to Permit Electronic Coverage.
Senator Spivak 334



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT •

VOLUME 138

• NUMBER 15

OFFICIAL REPORT
(HANSARD)

Thursday, December 2, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, December 2, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

INTERNATIONAL DAY OF DISABLED PERSONS

Hon. Brenda M. Robertson: Honourable senators, tomorrow, December 3, is International Day of Disabled Persons. Canadians will join millions around the world in the celebration of progress on the global disability agenda. The Senate of Canada takes part in that celebration.

All Canadians, but particularly Canadians with disabilities, look to us to share in their vision of a society in which equality for all is a reality. Senators share that vision, of course, and today represents a concrete step toward turning that vision into a tangible reality.

Senators will recall that in 1998 we made a commitment to develop a strategy to improve accessibility to and participation in Senate affairs by Canadians with disabilities. That included visitors, Canadians seeking information on the Senate, participation in committee work, Senate employees, and colleagues in this chamber, who have a disability. The approach we decided on had three component parts: a senator's guide to disability; an action plan; and training and awareness sessions.

The first component, a booklet entitled "A Senator's Guide to Disability", is a reference document for use by us all; it provides current information and tips on how to deal with questions on disability from interested Canadians. It is also a practical guide that confirms our role as champions of equality and facilitators for change at the community level. It is a quick read and I will be tabling it in the Senate next week.

Senators should be aware that this guide will also be available on the Senate Intranet to permit reading with technological assistance. It will also soon be available in Braille.

The second component is a disability action plan that is realistic with measurable results. Some of our colleagues and Senate officials have begun developing such a plan under the guidance of a team of disability experts. The issues are complex and the scope of the plan will be fairly comprehensive, covering such matters as public information, employment, technical aid, facilities, and security. This document is currently in an early drafting stage.

The Senate of Canada action plan will not dramatically change our environment overnight, but in time I believe it could become a model for other governing bodies. Our action plan is based on three guiding principles: It is based on our constitutional obligation and will build on Canada's progress; it will ensure commitment from all senators and staff; and it will be based on the work and direction set by the disability community. I look forward to joining my colleague Senator Carstairs in presenting this action plan to you in February 2000.

The third component of our disability strategy involves the delivery of training and awareness sessions on disability, with more detail on leading issues — who is who and who is doing what — and some information on the opportunities and the challenges of the next millennium. This, too, will be ready by February 2000.

Honourable senators, it is in these ways that we can create for all Canadians a fair chance to fully participate in Senate affairs. It is only fitting that on the eve of International Day of Disabled Persons we are rededicating ourselves to making integration and equality a practical reality for all.

Hon. Sharon Carstairs: Honourable senators, Senator Robertson was extremely generous throughout her remarks today on the eve of International Day of the Disabled. She repeatedly used the pronoun "we". Honourable senators should understand that the impetus for this action came from Senator Brenda Robertson. I was a mere bit player in the production of the document that will be delivered to you next week and in the action plan that you will get later on.

• (1410)

There were other important players, and those players are sitting in the north gallery. They are in the north gallery, honourable senators, because that is the gallery that is now accessible to the disabled. Sitting up there are Mr. Skip Brooks, Mr. Lawrence Euteneier, Mr. Jim Turner, Mrs. Claudette Fleury-Morena, Mrs. Pina DiFranco and Mrs. Julie Richer. Absent are Mrs. Marie Trudeau, and Mrs. Bernadette Quade and Mr. Luc Clairoux.

Together, these people helped to begin a process; the first step of which is the booklet. The most important step is the development of the action plan. The third step is the implementation of that action plan for senators and the entire staff of this very important institution.

I thank Senator Robertson for beginning this initiative.

[Translation]

THE FRANCOPHONIE

Hon. Jean-Robert Gauthier: Honourable senators, I speak often of the international Francophonie. Consequently, people have asked me what the Francophonie is. This reminds me of an experience I had a few years ago, when I had the pleasure of meeting the former president of France, Valéry Giscard d'Estaing. I was accompanied by my colleague Senator De Bané. I asked Mr. Giscard d'Estaing what the Francophonie meant to him. His response was: "It is France!" I realized there was a misunderstanding because, for me, the Francophonie is not France, it is far more than that. So I looked for a definition and I have found one, which I shall read to you:

The Francophonie is, first, the community of peoples which, to varying degrees, speak or use French in their national lives or in their international relations. It is also, however, a body of organizations and associations, governmental and non-governmental, engaged in sectors of activity and areas of interest common to the members of the francophone community.

Since the advent of the Francophonie summits, which bring together the heads of state and of government of the countries sharing the use of French, the Francophonie has evolved into a forum for political dialogue and for exchanges, focussing on the mobilization of the necessary resources for cooperation between peoples.

Honourable senators, I believe this is an accurate definition.

[English]

NATIONAL DAY OF REMEMBRANCE

TENTH ANNIVERSARY OF TRAGEDY AT
L'ÉCOLE POLYTECHNIQUE

Hon. Catherine S. Callbeck: Honourable senators, I rise today because Monday, December 6, 1999, marks the tenth anniversary of the tragedy at Montreal's L'École Polytechnique. On December 6, 10 years ago, a gunman entered this college and killed 14 women only because they were women.

This event was a cruel reminder to all Canadians that violence against women is all too prevalent. This tragedy forced us to be more aware of the importance of this issue and, second, it helped motivate us to focus our energy on ending violence against women.

Canadians have acted by designating December 6 as the National Day of Remembrance and Action on Violence Against Women. Now, every year, Canadians remember and pay tribute, not only to the 14 women who died on that day in 1989, but also to the women who live daily with the threat of violence in their lives, and to other women who have been killed by deliberate acts of violence.

Action has been continued with events such as the White Ribbon Campaign, which encourages men to pin on a white ribbon and pledge never to commit, condone or remain silent about violence against women.

The Prince Edward Island Advisory Council on the Status of Women has had a Purple Ribbon Campaign, which is celebrating its eighth anniversary this year. This campaign distributed approximately 8,000 purple ribbons and cards to Islanders. This program helps to raise awareness about violence against women and children.

The federal and provincial governments in Canada have also taken recent steps. The Iqaluit Declaration made simultaneously, on December 6, 1998, in all provinces and territories across Canada, reflects the commitment of governments to end violence against women.

These are positive steps, but there is still much left to be done. This year, on December 6, I hope that we will all take time, not only to remember all the women whose lives have been affected by violence, but to think of concrete action that can be taken to avoid violence against women.

INTERNATIONAL TREATY TO BAN LAND MINES

SECOND ANNIVERSARY

Hon. Douglas Roche: Honourable senators, today is the second anniversary of the International Treaty to Ban Land Mines. The 1997 treaty, banning the use, production, stockpiling and transfer of antipersonnel land mines has been ratified by 89 countries and signed by 136. By September of 1998, 40 countries had ratified the treaty, thus making the treaty international law on March 1, 1999.

This treaty is not only a testament to the commitment to mine-free world, but is the fruition of the pursuit of humanitarian objectives by the Canadian government and by Foreign Affairs Minister Axworthy. We should also applaud the work of Mine Action Canada and other like-minded organizations in their continuing efforts to build a culture of peace.

Canada must maintain its efforts in building a culture of peace and ensuring a just and secure world for the world's children, who, too often, are the innocent victims of the horrendous effects of war, both during and after conflicts.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

FORTIETH ANNUAL MEETING HELD IN QUEBEC CITY

Hon. Jeremiah S. Grafstein: Honourable senators, a co-chair of the Canadian delegation, later this day I will present the report of the fortieth annual meeting of the Canada-U.S. Inter-Parliamentary Group, which took place in Quebec City from May 20 to 24, 1999.

As you know, this inter-parliamentary group is the largest in number, one of the most active and is the longest standing in parliamentary history. Your executive chose Quebec City as the venue this year in order to give our American colleagues a closer personal understanding of the reality of the French fact as an intrinsic part of our larger Canadian fabric. The meeting this year in Quebec City followed the trend we had set at a previous meeting in Canada two years ago, when we met at Fortress Louisbourg in Cape Breton, and culminated our meeting in the Confederation Room in Charlottetown, Prince Edward Island.

It is your co-chair's desire that while we exchange views we give our American colleagues a deeper, more perceptive understanding of the Canadian milieu and a living lesson in Canadian history. As a result, we received the largest contingent of our American colleagues yet in Quebec City, 24 in number, in addition to a large number of their staff.

We had an open and candid exchange of views on the myriad issues and problems confronting our bilateral relations. We should never forget that although trade irritants between our two countries receive instantaneous media coverage, 97 per cent of our two-way trade is conducted peacefully, effectively and fruitfully for both our countries.

This close working relationship with our congressional colleagues in the United States assists in resolving issues in the American Congress when they arise. Not the least of these was the recent decision of the American executive to delay implementation of section 110 of the U.S. Immigration Naturalization Service Act, a proposal for visa requirement for entry to the United States.

Questions we raised at the thirty-eighth, thirty-ninth, and fortieth annual meetings of our group resulted in two private bills being introduced into Congress. The Senate passed a bill, and an identical bill in the U.S. House of Representatives, sponsored by active congressional members of our association, is now working its way through the congressional legislative system. We hope, through continued efforts by ourselves and our American colleagues, that this section will be permanently removed from the INS Act, as it detrimentally affects Canada.

• (1420)

I only bring this small point to the attention of honourable senators, as the success of our parliamentary group depends to a large measure on close personal relations between members of our group, our significant others, and our counterparts in the U.S. Senate and the House of Representatives. The co-chairs, supported by your executive, have chosen to expand and intensify the scope of our activities to include closer working relationships on single issue bilateral matters, such as transatlantic trade and transborder crime, to name but two difficult issues discussed at our annual meetings.

Honourable senators, great attention has been paid to the increasing congestion and gridlock encountered all along the border crossings because of the explosive increase in trade in the last five years, and the overlapping jurisdictions that appear there.

The co-chairs and other members of the other place attended and spoke recently in Washington at a Can-Am Border Trade Alliance conference. I will be presenting a report of this meeting within the next few days to the Senate.

Honourable senators, allow me once again to encourage all of you to read the extensive compendium of issues in the report to be tabled later this day, to join this association, and to work actively with us to enhance our relations with our American colleagues as we move toward a mutually beneficial future. More issues unite us than divide us. Still, our trade relationship requires constant vigilance and due diligence.

May I thank my Canadian co-chair, Joe Comuzzi of the other place, our senior staff person, Carol Chafe, our American co-chairs, Senator Frank Murkowski of Alaska and Representative Amo Houghton of New York State, their staff and all honourable senators for their marvellous and delightful cooperation, in the interest of our two great neighbours. We look forward to the Senate's active involvement in all these works at future meetings.

ENVIRONMENT

MANITOBA—NORTH DAKOTA DEVIL'S LAKE DIVERSION

Hon. Janis Johnson: Honourable senators, I should like to bring to your attention the events in Manitoba concerning the proposed Devil's Lake diversion. It is a frightening name for a frightening water project. The State of North Dakota is planning to dump excess water from Devil's Lake into the Red River. As you may know, the Red River flows north into Manitoba and empties into Lake Winnipeg.

The Red River supports more than 50 species of freshwater fish, and biologists consider it to be the second-richest waterway in Canada after the St. Lawrence River. Because of flooding problems on Devil's Lake, the State of North Dakota wants to build a 3-mile-long drainage ditch into the Red River.

Devil's Lake is highly saline and contains harmful chemicals. More important, it contains some very aggressive and commercially useless fish species that are alien to Canadian waters. These fish species belong to the Gulf of Mexico watershed. The Red River — and in fact all of Manitoba's rivers — feed into the Arctic watershed. These watersheds are divided by a natural height of land and their resident species have been separate for 10,000 years. Introducing Devil's Lake fish to the Red River would be as risky as introducing rabbits to Australia.

As a Manitoba senator, a property owner along Lake Winnipeg, and a member of the Lake Winnipeg Watch group, I can assure you that this will become a very contentious project. Lake Winnipeg is already under assault. Hydro regulation of the lake has contributed to flooding and shoreline erosion. Artificially high water levels have all but killed off the once-legendary Netley Marshes. This project has the potential of becoming another nail in the coffin of one of Canada's largest lakes.

I am pleased to see that, finally, the federal government is taking an interest in this matter. Foreign Affairs Minister Lloyd Axworthy has recently announced that, if necessary, he is prepared to ask for a veto from the International Joint Commission, which is empowered to review all water projects that affect both Canada and the United States. U.S. President Clinton has likewise expressed support for Manitoba's concerns. In a statement last month, President Clinton said that he will refuse to authorize any diversion that would threaten Canada's waters.

Premier Gary Doer of Manitoba, however, recently toured the proposed diversion site and returned with the news that North Dakota is planning to fast-track the project, with plans to begin construction as early as next October.

Honourable senators, we should all express our support for Minister Axworthy's and Premier Doer's efforts in this matter. I ask you, as individual senators, to keep up-to-date on this controversial issue that will only become more contentious in the coming months.

ROUTINE PROCEEDINGS

PUBLIC SERVICE WHISTLEBLOWING BILL

FIRST READING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) presented Bill S-13, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Kinsella, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— FIRST READING

Hon. Nicholas W. Taylor presented Bill S-14, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Taylor, bill placed on the Orders of the Day for second reading on Tuesday next, December 7, 1999.

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

REPORT OF FORTIETH ANNUAL MEETING HELD IN QUEBEC CITY TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Fortieth Annual Meeting of the Canada-United States Interparliamentary Group, Quebec City, May 20 to 24, 1999.

[Translation]

• (1430)

FISHERIES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MATTERS RELATED TO ITS MANDATE

Hon. Gerald J. Comeau: Honourable senators, I give notice that on Tuesday next, December 7, 1999, I shall move:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to the fishing industry;

That the Committee report no later than December 12, 2000; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ENGAGE SERVICES

Hon. Gerald J. Comeau: Honourable senators, I give notice that, on Tuesday next, December 7, 1999, I shall move:

That the Standing Senate Committee on Fisheries have power to engage the services of such counsel and technical clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills subject matters of bills and estimates as are referred to it.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO PERMIT ELECTRONIC COVERAGE

Hon. Gerald J. Comeau: Honourable senators, I give notice that, on Tuesday next, December 7, 1999, I shall move:

That the Standing Senate Committee on Fisheries be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

[English]

THE ESTIMATES, 1999-2000

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) PRESENTED AND PRINTED AS APPENDIX

Leave having been given to revert to Presentation of Report from Standing or Special Committees:

Hon. Lowell Murray: Honourable senators, I have the honour to present the second report of the Standing Senate Committee on National Finance, which deals with Supplementary Estimates (A), 1999-00.

I request that the report be printed as an appendix to today's *Journals of the Senate*.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

(For text of report, see today's *Journals of the Senate*, Appendix, p. 193.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

QUESTION PERIOD

TRANSPORT AND COMMUNICATIONS

SHUTDOWN OF INTER-CANADIAN AIRLINES— POSSIBILITY OF REVIEW BY STANDING COMMITTEE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Chair of the Standing Senate Committee on Transport and Communication. Has it heard evidence by Robert Myhill, the President of Inter-Canadian Airlines? If so, what did he say about the financial situation of his company? If it has not heard him, does the committee intend to hear him?

Hon. Lise Bacon: Honourable senators, the committee has not yet reported, as it has not completed its deliberations. We will be sitting next week, and when the report is completed, I will present it to this house.

Senator Kinsella: Honourable senators, we all know that Inter-Canadian is experiencing serious difficulties. In a number of airports in the Maritimes, air services are no longer being provided.

Does your committee, like the committee in the other place, intend to study this very serious situation or is it a routine matter for the committee?

Senator Bacon: Honourable senators, our committee received an order of reference, and the mandate of this house is honoured by the committee. That is what we are doing at the moment, and once we have concluded, we will table the report.

[English]

TRANSPORT

SHUTDOWN OF INTER-CANADIAN AIRLINES— EFFECT OF ORDER ISSUED UNDER SECTION 47 OF CANADA TRANSPORTATION ACT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a further supplementary question for the Leader of the Government in the Senate.

In a letter dated November 27, 1999, addressed to Mr. Collenette, the Minister of Transport, the President of Inter-Canadian, Mr. Robert Myhill, stated *inter alia* that the government has utterly disregarded the consequences of its actions in terms of the section 47 order. Page 2 of this letter states, in part:

Undoubtedly, Inter-Canadien is a victim of policies and actions which were designed to benefit other industry participants, many of whom have a competitive interest in the demise of Inter-Canadien. We fully expect the various shareholders in Inter-Canadien will insist that we instruct our legal counsel to examine fully, and then to take, whatever legal or other recourse is available to Inter-Canadian and its stakeholders to redress this situation.

What is the government's position as to its responsibility for this difficulty that the President of Inter-Canadian asserts it is having because of events that unfolded pursuant to the issuance of the order under section 47 of the Canada Transportation Act?

Hon. J. Bernard Boudreau (Leader of the Government): I wish to thank the honourable senator for his question.

I have not had the opportunity to examine the letter of the President of Inter-Canadian in detail with respect to the position of his company or, indeed, with respect to his allegations. If he feels there is anything actionable against the Government of Canada, I am sure he will proceed.

I do not know, for example, how large the financial problems of Inter-Canadian are at the moment or how large they were before section 47 was invoked. Whether those financial problems pre-dated section 47 or whether they were attributable to other elements with respect to the operation of that particular company, I do not know.

The responsibility of the Government of Canada was spelled out clearly by the Minister of Transport in outlining the principle that service to smaller communities in Canada is protected and will continue to be protected. Whether it involves the fate of a particular company in a given set of circumstances, that will be hard to say.

The government and the minister have clearly set out the principles upon which to act. I will not repeat them, as I am sure the honourable senator is aware of all the principles which will guide the government's action.

INDIAN AFFAIRS

NOVA SCOTIA—ATTEMPTED SUICIDES ON MEMBERTOU RESERVE—REQUEST FOR CONCRETE AND PROACTIVE MEASURES OF ASSISTANCE FOR ABORIGINAL COMMUNITIES

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

Last week, in Sydney, Nova Scotia, four children aged 9 to 13 went into the woods on their reserve, intent on brutally killing themselves. Two boys from the Membertou band, the third largest Mi'kmaq reserve in Nova Scotia, actually attempted to commit suicide by hanging themselves from trees — one with a clothesline wire and the other with a rope. Police and other children managed to cut them down before their actions proved fatal. We have communities in crisis all over this country. Native children. Canadian children, are killing themselves. A 1997 University of Toronto study revealed that the annual suicide rate among natives aged 15 to 24 is about 110 per 100,000 people, compared to about 25 suicides for every 100,000 people of that age in the rest of the population.

On Tuesday, the Council and Chief of the Membertou Band issued a plea for help to the Department of Indian Affairs to provide adequate funding for counselling and programming for native parents and children. I ask the Leader of the Government in the Senate: What real concrete and proactive measures does the government have in place to help the aboriginal communities of Canada — communities where people are living in poverty, where unemployment rates are soaring, where drug and alcohol abuse is rampant, and where the youth of this country have fallen into despair? What is the government prepared and committed to do to help these threatened communities help themselves?

• (1440)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am aware of the general circumstances to which the honourable senator has referred. However, I am not aware of the specific details of the individual incidents. As I recall, initially there were some confusing reports which emerged from Membertou with respect to the action of the individual youngsters.

In any event, the challenges for us in communities such as Membertou, and these communities exist across the country, is real and one which has existed for decades — indeed, perhaps centuries. It is a challenge that the Government of Canada is attempting to meet in a constructive way through the many programs offered by the department.

I am sure the minister in question will seriously consider the requests made by the representatives of Membertou. In fact, I hope to have a discussion with him and with some of the representatives of that community myself over the next number of days.

NOVA SCOTIA—ATTEMPTED SUICIDES ON MEMBERTOU RESERVE—REQUEST BY BAND LEADERS FOR MEETING WITH MINISTER

Hon. Donald H. Oliver: Honourable senators, it was interesting that the leader referred to the Minister for Indian and Northern Affairs, Mr. Robert Nault, because, as he knows, the Membertou council and chief have requested a face-to-face meeting with him. Is the minister prepared to respond to this request? If so, when? Can it take place within the next several weeks?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, only literally minutes before entering the chamber I became aware of the request for a meeting. I will do what I can to facilitate such a request. Ultimately, the decision is left to the minister, but I know that he will be concerned about the circumstances surrounding this request and will respond as soon as he is able.

[Translation]

HEALTH

FEDERAL FUNDING TRANSFERS TO PROVINCES

Hon. Jean-Claude Rivest: Honourable senators, I should like to ask the minister whether he intends to tell his cabinet colleagues about a major issue in all regions of Canada, namely funding for health, social services and education.

If we read the newspapers, or if we follow the hospital situation in all the provinces, we realize that provincial governments are faced with major underfunding problems. The shortage of financial resources to maintain the quality of care in just about every hospital in the country results in a lack of personnel and equipment, congestion in emergency rooms, reductions in resources and staff working with the elderly et cetera.

The federal government has huge surpluses. Instead of setting up projects that are of some interest, such as the millennium scholarships in education, or the recent initiative to fight diabetes, does the minister not agree that it is time the Canadian government transferred a large part of its surpluses to the provincial governments?

Apart from ensuring the smooth operation of our federal system and the adequate provision of services to all Canadians, such a transfer would allow provincial governments to adequately fulfil their constitutional responsibilities in the areas of health, social services and education. The fulfilment of these needs is critical to the well-being of our society. Is it not time the Government of Canada recognized this urgent request by all regions of the country?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the 1999 budget was a health care budget. It reinstated significant amounts of money in terms of transfers to the provinces to specifically address the issue of health care. It is a major challenge, and I can say that with some degree of sympathy and knowledge, having for a short period of time acted as health minister for the Province of Nova Scotia. I can say that, until I took up these responsibilities, it was the most difficult job of my life.

The challenges are partly due to what has been historically a dramatic growing demand resulting from a number of factors, not the least of which is the demographics of the country. Our demographics will continue, as we move into the next decade, to be a major problem. The federal government has responded well through the 1999 budget, but I would not begin to tell the honourable senator that there are not great challenges ahead. Perhaps that is one area that will be the greatest challenge for the federal government and the provincial governments in our country over the next decade.

[Translation]

Senator Rivest: Setting aside any other priorities it might have for these surpluses, could the Government of Canada not just make a significant transfer of funds, outright and directly, to the provincial governments so that they can deal with the extremely pressing needs of health care?

You were Minister of Social Affairs. You were well aware that, without additional funding, which could only come from the Canadian government, you would be unable to meet the pressing needs of health care. With significant and substantial assistance from the Canadian government, provincial governments will be able to meet these needs.

[English]

Senator Boudreau: Honourable senators, as I said, the government has taken action over the last year or so to reinstate large amounts of funding to the provinces. Simply increasing funding amounts, in my humble view, is not the answer. It is shovelling more into the inexhaustible hole of demand. I suspect more funding will be required as the demands on the system continue to increase, and we also require the capacity to develop

innovative approaches to the delivery of health care and innovative breakthroughs in terms of health care solutions.

An example of the commitment on the part of this government is the new health care research funding. It is a substantial amount of money. This government has committed hundreds of millions of dollars as part of an answer as we move forward.

The government has demonstrated significant commitment. I am confident it will continue to demonstrate that commitment as we move forward.

[Translation]

Hon. Roch Bolduc: Honourable senators, I do not wish to drag out the debate indefinitely. First the government invests in medical research, then it announces the establishment of a program for muscular dystrophy, after which it announces a program for another disease. This is how the federal government defines health care priorities. That is not its role.

Ignoring provincial jurisdiction is not acceptable! You will not convince our people that this is an acceptable solution. What it boils down to is that the federal government is interfering in health care. It says that one service is more urgent than another. This is not reasonable.

The federal government has more important things to do at a higher level. Its role is to distribute the country's resources. It has major roles to play in international politics, monetary policy and so forth. What does it know about managing health care in the Province of Quebec? This is ridiculous. The public will not stand for it.

[English]

Senator Boudreau: Honourable senators, the honourable senator is quite right. The delivery of health care obviously has been and will no doubt continue to be a provincial responsibility. However, to say that the federal government has no role to play in health care other than sending a cheque would be a mistake.

• (1450)

In fact, the Canada Health Act is probably the single most influential piece of legislation in the country on health care. There is a role for the federal government to play. It is not on the front-line delivery, but that is why federal research funding and initiatives will be useful in allowing the provinces to meet the challenge. I agree that the provinces are on the front line.

[Translation]

Senator Bolduc: Honourable senators, I have the feeling that officials in the federal Department of Health are saying that folks in Toronto, Vancouver and Quebec City do not know where the priorities lie and that they will tell them. That was just for starters.

[English]

FINANCE

AUDITOR GENERAL'S REPORT— EFFICACY OF BUDGETARY LONG-TERM PLANNING

Hon. Roch Bolduc: Honourable senators, as he has in the past, the Auditor General has again told Parliament that the two-to-five-year budget-planning horizon is much too short to take into account the longer-term implications of the fiscal choices we make, especially in the context of an ageing population and the fiscal pressure this entails.

Honourable senators, this is not about setting targets or about meeting targets. This is about knowing the long-term implications of government policy decisions. Even the public accounts committee in the other place has now endorsed the need for longer-term projections. Yet the government continues to argue that giving us long-term information would undermine the importance and urgency of addressing immediate problems.

Honourable senators, could the government leader explain why the Auditor General is wrong when he says that only in considering the longer term can we fully appreciate the urgency of our fiscal situation?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, there are various purposes for planning, and different periods of planning are appropriate for different purposes. I can say quite safely and confidently that, in virtually every government department, long-term planning is taking place in the form of five-year plans, ten-year plans and beyond.

For budgeting purposes, the Minister of Finance has said that it is a cautious but appropriate approach to deal with a two-year cycle when determining the specific budget requirements and revenue projections for a given year. That does not mean the government is not interested or indeed engaged in longer-term planning.

[Translation]

Senator Bolduc: Honourable senators, the attitude of the Auditor General strikes me as reasonable. I agree with the minister when he says that on a budgeting base of two years, that could be reasonable. I can understand that. The Auditor General says that the government should make longer studies available to the public.

In the Liberal tradition, and here I do not want to attack my adversaries excessively, we must recognize that, since Mr. Trudeau's government, the main motto has been "fly now and pay later". We have seen this, for example, in the area of pensions, where people were given pensions right away. Pensions were given to people for 25 years and then, all of a sudden, the government woke up. Paul Martin looked at the issue and

realized that it made no sense, that contributions had to be increased by 73 per cent over the next three years, or the plan was headed toward bankruptcy. That is not wise.

The Auditor General says, and I agree, that we need statistics for a longer term. The example of the pensions is the finest one available. They realized it was easy to give pensions to people who had not contributed. Now they are asking the next generation to pay for those pensions. That generation will probably receive less benefits than their parents. It is not right that my children should be paying for my pension, but that theirs will be smaller when they get to my age. Even with the 73 per cent increase over the next four years, there will not be enough to resolve the problem. We have to look at the long-term implications. The government should make it mandatory to apply such a rule. It is a rule of wisdom for good management. Every company does it.

[English]

Senator Boudreau: Honourable senators, with respect to the Canada Pension Plan, obviously that is being reviewed. It is under the governance of both the federal and provincial governments. They meet on a triennial basis specifically to look at long-range objectives.

I agree that operating without a long-range approach can saddle future generations with burdens to pay for services from which the present generation has benefited. The worst example of that is a government operating with large deficits. The record of this particular government has been excellent. The previous government in this country ran huge deficits on an annual basis, in fact borrowing from the children of the future to pay for the programs that were popular in the day. That is the worst kind of example of what the honourable senator is discussing.

Luckily, the present Finance Minister and the present government have remedied that situation. I know the honourable senator will applaud them for it.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate by the Honourable Senator Stratton on November 2, 1999, regarding the increase in capital expenditures in Supplementary Estimates (A) and the possible opening of new embassies.

FOREIGN AFFAIRS

INCREASE IN CAPITAL EXPENDITURES IN SUPPLEMENTARY ESTIMATES (A)—POSSIBLE OPENING OF NEW EMBASSIES

(Response to question raised by Hon. Terry Stratton on November 24, 1999)

In response to the question regarding the proposed increase of \$43,875,400 to the existing capital appropriation of \$87,690,000 approved for the Department of Foreign Affairs and International Trade (DFAIT) through 1999-2000 Main Estimates, it should be noted that DFAIT's capital budget covers expenditures not only for real property but also for other tangible and intangible assets.

Of the proposed \$131,565,000, approximately \$68 million is planned to be spent on real property. The balance will be spent on the maintenance of a global telecommunications network and information management technology systems, for the purchase of security systems and equipment, for the purchase of vehicles at missions abroad, for repairs and maintenance of property and for the purchase of furniture and furnishings.

With respect to property projects, the Berlin project accounts for only \$26.2 million of this total in 1999-2000. The balance of the approved capital funding for Berlin will be spent in fiscal years 2000-01 through 2003-04. A listing of major capital spending on real property projects in 1999-2000 is provided in the table below. Spending levels are different than those presented last year in DFAIT's 1999-2000 Report on Plans and Priorities given such factors as delays in obtaining local building permits, contractors' difficulties in obtaining labour and materials and extra time required to complete the design phase of certain projects.

Nairobi, Kenya (Chancery Construction)	1.0
New Delhi, India (Staff Quarters Construction)	3.2
Tokyo, Japan (Staff Quarters Construction)	5.8
Warsaw, Poland (Chancery Addition/ Renovation)	0.8
Seoul, Korea (Chancery Relocation)	0.7
Total	59.7

ORDERS OF THE DAY

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Furey, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the Second Session of the Thirty-sixth Parliament.—(6th day of resuming debate)

Hon. Norman K. Atkins: Honourable senators, I rise today to take part in the debate on the reply to the Speech from the Throne. Before I do so, however, I want to address a few personal remarks to the leadership on the other side.

Senator Boudreau, I congratulate you on your appointment to the Senate, on your appointment as Leader of the Government in the Senate, and for becoming a member of the Privy Council and political minister for Nova Scotia. You have let it be known you are only sojourning in this place. We wish you well and hope that, while you are here, you will see the importance of the role of the Senate in the parliamentary process. Who knows? You may even come to enjoy the workings of this place to the point where you will wish you reconsidered your initial remarks concerning your length of stay in the Senate. Then again, if Mr. Chrétien does not lead the Liberals in the next election, I assume you are off the hook.

Major Capital Property Projects	1999-2000 Planned Spending (\$ millions)
Beijing, China (Compound Purchase)	7.5
Berlin, Germany (Chancery Construction)	22.5
Berlin, Germany (Official Residence Construction)	3.7
Cairo, Egypt (Chancery Construction)	2.8
Caracas, Venezuela (Chancery Purchase)	4.5
Geneva, Switzerland (Chancery Construction)	3.7
Kingston, Jamaica (Chancery Construction)	3.5

I appreciate the government leader's response to my question yesterday that he would try to get to Vimy House before the house reconvenes after Christmas. I would be delighted to accompany him.

Senator Hays, you have done many things in your public life and in the Senate. It seems only natural that eventually you would receive the call to take on the mantle of Deputy Leader in this place. It is becoming a tradition. Your predecessor was a president of the Liberal Party, too. Your positive contributions to committees here are well known. Perhaps your experience will enable you to see the wisdom in considering more opportunities for the Committee of the Whole in studying legislation. I, for one, hope you will still be able to maintain an active role in the Senate's Agriculture Committee, especially during this time of crisis in the grain-farming community in Canada.

• (1500)

Senator Graham appeared to us on this side of the house as being an effective Leader of the Government in the Senate. He knew that it was his job to ensure passage of legislation through this place. However, in that role, he seemed to appreciate the job and, indeed, the importance of the opposition. It is our role to debate and to bring to the attention of the government and the people of Canada flaws in pieces of legislation as we see them.

Senator Graham also recognized that the Senate was not to be a rubber stamp for the work of the House of Commons. It is the role of the Senate to ponder further the effects of legislation, its wording, and listen attentively to those who both support and oppose legislation. While we had our disagreements over policy from time to time, Senator Graham always treated the opposition with respect and the role of the Senate with respect.

Honourable senators, in my remarks today, I will concentrate on matters of great importance that the government ignored and were omitted from the Speech from the Throne. This was the last Speech from the Throne for this century and it was a tremendous opportunity for the government to review the past accomplishments of Canada and its people, and set the scene for Canada in the next century. It was a golden opportunity to engage in a visioning exercise and tell the people of Canada where this government saw Canada going in the years ahead. It should have been a speech of great vision. It was not! It should have established the *raison d'être* of this government, what it wants to do with the power it holds.

Unfortunately, unlike governments which have gone before it, this government has been and continues to be completely unable to define the future for Canadians. In the Diefenbaker years, we had his vision of the development of Northern Canada, the development of Canada's natural resources. The Pearson years were characterized by commitment to universal health care, our centennial, a new flag; thus bringing Canada to a new level of awareness by countries around the world.

The "Just Society" and the patriation of the Constitution were the focus of the Trudeau years. It was during Joe Clark's term as

Prime Minister that we came closer together as Canadians, with a better understanding of each other through his description of Canada as a "community of communities".

The two Mulroney mandates were characterized by attempts to reconcile the differences within Canada through constitutional change; a vision of a truly united Canada. As well, it was during this period that Canada forged the economic basis upon which Canada depends today: free trade agreements and tax reform, which makes the price of our exports competitive with those of our trading partners.

It is important to review the governments of the last half of this century to see how the Chrétien government is void of policy and foresight. A Speech from the Throne which is void of vision is not what the people of Canada deserve.

Let us go on. The speech is quite self-congratulatory in regard to how the government characterizes its role in the economy. On this subject, I wish to associate myself with the remarks of the Leader of the Opposition in the Senate, Senator Lynch-Staunton. In his speech in reply to the Speech from the Throne he gave the government both the history and economic lessons as to who created Canada's financial crisis — the Trudeau Liberals — and who put in place a basis to resolve it — the Mulroney Conservatives.

For my part, I can go back to my speech on the budget debate earlier this year. While I congratulated the government on balancing the budget, I also pointed out that there were many other economic levers it was ignoring. Canada was not attracting sufficient foreign investment, taxes at all levels were too high, productivity is so low that it threatens our standards of living and no target has been set for reducing Canada's debt.

A number of economists are expressing their concern that the Canadian dollar will dip as low as 60 cents within the next five years. Our present depressed dollar has resulted in a recent flurry of takeovers of Canadian companies. This has led former premier of Alberta Peter Lougheed to state:

My concern is with the passive governments and passive citizens and passive corporations about the number of acquisitions of significant Canadian concerns by American companies, and secondly, by the loss of decision-making in Canada by the loss of corporate head offices to United States centres.

Nothing has been done, as the Minister of Finance continues to concentrate on accumulating a surplus for the sake of doing so.

The Speech from the Throne announces tax cuts, cuts which no one has noticed, cuts which do not even amount to the surplus in the Employment Insurance Fund. The government's inaction on the economy, the problems with taxes, productivity and foreign investment led Tom D'Aquino, the head of the Business Council on National Issues, to state:

The reality is that we have a government in Ottawa that fails to grasp the gravity of the situation facing the country. Too many of its members and advisers are content with the crumbs that Canadians have managed to gather as we stroll behind the combine harvester of the American economy. They repeatedly tell us not to worry and be happy. They see the economy doing well, more people with jobs, surpluses that keep growing and opinion polls with high approval ratings. People like you and me and so many others who dare to call for radical change and new ideas are often dismissed as self-interested scaremongers.

Nowhere is the government's inaction on these matters better seen than in the debate over the "brain drain" from Canada. The Prime Minister believes this matter is simply a myth, and I suppose he believes that if he takes no action on it, as he has done on so many other issues, it will either go away or he will not be held accountable.

Honourable senators, this was not the view of experts who appeared at our Senate summer caucus in Calgary in September. Representatives of the industry, business, think-tanks and the academic world combined to tell us of the seriousness of the issue and the negative effect it is having as they try to compete in this global marketplace.

Of course, a concrete illustration of what the Prime Minister believes is a myth is given by John Roth, the Chief Executive Officer of Nortel Networks. His view is that Canada's wealth producers are leaving — if, indeed, in his estimation they have not virtually all left already. Mr. Roth admits that one of the reasons top executives leave is the salary differential between Canada and the United States. He cites as the main reasons for the drift of our top people out of Canada: the weak Canadian dollar, the top marginal tax rate in Canada, and the exciting level of business activity outside Canada.

The creation of an economic climate to induce people either to stay in Canada or come to Canada is the task of a government's fiscal, monetary and economic policies. As Canadian nationalist Peter C. Newman's commented on Mr. Roth's statement:

I don't think he is saying, "I want to get the hell out of Canada."

Rather, Mr. Newman believes Mr. Roth is saying:

"I have no choice."

The government's lack of vision, lack of action in the fiscal and economic arena, except for balancing the budget on the backs of the provinces and Canada's poorest citizens, has created this problem. The government's continued inaction in the face of overwhelming evidence only exacerbates the problem.

In addition to the lack of action on the fundamental levers of our economy, this is a Throne Speech which ignores substantial

groups of Canadians, as well as significant problems in Canada's military and in our education system.

The growing number of poor and homeless Canadians were ignored. What good is longer-term maternity benefits if you do not have a job? What good are these benefits for those who move back and forth from work to welfare as a regular part of their routine?

As Marjorie Doyle, of St. John's, Newfoundland, wrote in October:

Last week's Throne Speech was not addressed to me.

Her writing graphically describes the irrelevance of the speech's promise of a connected Internet future with the reality of life in a Newfoundland fishing port or in rural Canada. She states:

The vision of Canada that has technological prowess as its centrepiece seems remote, exclusive even, when it is unfolded as you watch a man flip up onto the wharf his catch of herring or squid, using a simple tool.

As the Speech from the Throne unrolls, adding to the general glorification of all things cyber, it is brought home to me yet again that the gap between Canada of the ruling sectors and the one that many Canadians are living in is wide indeed...

— and getting wider —

An outport Newfoundland cannot be the only place where people and lifestyles are marginalized, if not all together denied, by the concept of Canada as Cyber Queen. There must be many Canadians in rural areas where cyberspace seems peripheral. On the day that last week's Throne Speech was delivered, the highway most travelled in one Newfoundland outport was the well-beaten path into gardens at the back of the community, gardens where men and women grow basic root crops in a way not much different from that of their ancestors in the early 19th century, often working the very same patch of ground. Men were out in trap-skiffs fishing, a primitive-looking eel trap was in place in the community pond, and the husband and wife who run a woods operation were hard at it.

• (1510)

We cannot forget the roots of this country in the ongoing rush to embrace technology.

The promise of increases in national child benefits to come in the year 2002 mean little to either the working poor or those on welfare who will see any increase taxed back by the provinces.

At least we in this party have established a task force on poverty, ably co-chaired by my colleague Senator Cohen and the Progressive Conservative member of the House of Commons from Shefford, Diane St-Jacques, accompanied by Senator Lavoie-Roux.

This government, so devoid of policies in this area, would do well to consult the October paper released by the Caledon Institute entitled, "How to do a Children's Budget and a Tax Cut Budget in 2000."

The Hon. the Speaker: Honourable Senator Atkins, I regret to interrupt you, but your 15-minute speaking time is elapsed. Are you requesting leave to continue?

Senator Atkins: Yes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Atkins: I thank honourable senators.

Their recommendations begin to lay the basis for an effective family income security system and reasonable personal income tax rates for low- and medium-income Canadians.

Completely ignored in the Throne Speech is the plight of Canada's Western grain farmers. At least they were not ignored here in the Senate. I commend the Deputy Leader of the Government in the Senate for not opposing Senator Gustafson's request for an emergency debate on this matter on November 3.

That debate illustrated the human suffering associated with the farming crisis, as well as the lack of a coherent national strategy to protect and enhance the family farm. We should not have to wait for a crisis to arise, as the government has done on so many other occasions, to discover that policies are lacking or non-existent. As Senator Andreychuk so succinctly put it in that debate:

The bottom line is that there is no creative awareness within the federal government in particular, and there must be a new way of looking at the issues of farming in the West....This is an immediate crisis.

Again, vision, imagination and the ability to come to grips with new issues escape this government. While we had a full and useful debate in the Senate on this subject, it simply should not have been necessary. The government had a golden opportunity to address agricultural issues in Canada in the Speech from the Throne, to set new direction, and to establish parameters for policies to protect the family farm. All of this could have been followed quickly by legislation introduced in the House of Commons to implement these new designs.

What the farm community received in the Speech from the Throne was nothing, nothing at all.

What about the areas that the government did touch upon in the Speech from the Throne?

With regard to our military, the speech began on a hopeful note, with a complimentary description of our troops as peacekeepers and in the world wars and in Korea. Both in the body of the speech and the heading of "Canada's Place in the World" is placed probably the most disingenuous phrase ever placed in a Speech from the Throne:

The government will also continue to ensure that the Canadian Forces have the capacity to support Canada's role in building a more secure world and will further develop the capacity of Canadians to help ensure peace and security in foreign lands.

This from a government that has made our world-class frigate virtually useless by cancelling the helicopter purchases put in place by the previous government, and that is putting our troops in further danger by not moving swiftly to put in place new helicopters.

Each year since 1994, the defence budget has been on the front line, not for increases but for continued decreases, to the point where, between 1994 and 1998, it was reduced by 23 per cent. The Conference of Defence Associations believes the Armed Forces, especially the army, is on the verge of collapse. In their opinion, at least another \$500 million needs to be injected immediately. It is no longer acceptable for the Minister of Defence to state that the forces will continue to do more with less. He cannot, as he suggests, reorganize the budget, because the budget simply is not large enough to reorganize.

In an article entitled, "Reforming Canada's Military", authored by retired colonel Michel Drapeau, the government is called upon to revitalize the militia and the army reserves, reduce the number of generals by half, separate the functions of the civilian bureaucracy in the Defence Department from that of the military command, eliminate the public affairs departments of Defence and get on with the job of properly equipping our forces. My own advice would be to implement the conclusions of the 1995 white paper on defence, handed down by this Liberal government. At the very least, this government should refrain from making statements about "continuing" to resource our Armed Forces when they have not yet begun to help.

Finally, honourable senators, I want to touch briefly upon a subject which I have spoken on before — and upon which I have set down an inquiry on which I will speak later — and which was ignored in the Speech from the Throne. That is the issue of the mounting debt being assumed by post-secondary students in Canada. The Speech from the Throne did address the need for increased funding for research and development in Canada, but only hope that this is funding for fundamental research in universities, research in areas which the universities themselves believe are important.

It is my belief that government must do better than the millennium fund announced by the Minister of Finance in his budget two years ago. I believe this situation of mounting debt, which affects thousands of students across Canada, can be successfully addressed. However, to do so will require not only the commitment of resources but also imagination in the design of a program which will not only help all post-secondary students but encourage them to excel in their studies and encourage those who have dropped out to return to complete their education. I will have more to say on this subject when I speak on my inquiry in the next few weeks.

The prorogation of a session of Parliament presents an artificial break in the life of a Parliament. In the case of the prorogation of the first session of this Parliament, great expectations and anticipation arose as to the contents of the Speech from the Throne, which surely would set the tone, direction and vision for Canada in the next century. This government has failed Canadians. The Speech from the Throne was typical of a government bereft of ideas and with no sense as to the future of Canada or its role in the future.

To paraphrase Rachna Gilmore, a recent recipient of the Governor General's Literary Award, it is important that we nurture not just those who walk along eyes downward, but also those who look at the stars and choose to dream. This country deserves a government that has a vision of the future that will inspire Canadians as we move into the next century. We deserve a government which dares to dream.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Rose-Marie Losier-Cool: Honourable senators, I should like to share with you today my reactions to the Speech from the Throne opening the Second Session of the Thirty-sixth Parliament of Canada.

I will focus on three themes: young children in Canada, parental leave, and human safety, especially the safety of children in developing countries.

• (1520)

First of all, I am pleased that the government is beginning to make early childhood its first priority. The Speech from the Throne reads as follows:

No commitment we make today will be more important for the long-term prosperity and well-being of our society than the commitment to invest our efforts in very young children.

The government must offer a range of options to parents and families to support them in their efforts to care for their children. Parents are in great need of support and guidance in carrying out

this primary responsibility. The well-being of children is dependent on a number of things.

First, 52 weeks of parental leave will finally make it possible for parents to spend more time with their very young children without having to place them in the care of a third party.

You will agree, honourable senators, that entrusting a very young child to a third party requires a great deal of advance preparation for most parents.

I can say from personal experience that when my special research assistant returned from six months of maternity leave, she found it very difficult because, while maternity leave is for six months, most day care services take children at one year. There is a six-month period for which it is very difficult to find day care spots.

In fact, most parents would like more support in achieving a better balance between child care and the tough demands of today's work place.

A child's early years are critical to his long-term health and well-being.

Honourable senators, children living in minority communities across Canada deserve special attention if we wish to ensure the healthy development of all our children and their families.

This is why it is very important to better assess and know the needs of francophone and Acadian children and families in Canada. Therefore, recognizing the identity and realities of francophones is a major component of the future of francophone and Acadian children and young people. All Canadian children are entitled to the same services and development facilities.

The importance we attach to early childhood now will allow thousands of children to enter adult life with confidence, creativity and determination.

[English]

Aside from the obvious social benefits of supporting early childhood development, the Vancouver Board of Trade sees clear economic benefits. I quote:

Our findings show that investment in our children's early development can reduce social problems, enhance capabilities and provide good economic payback.

They conclude by saying:

In short, investing in our children is good public policy.

I applaud the Vancouver Board of Trade for taking this position by standing up for the children of Canada and defending their interests.

Honourable senators, I am sure you will all agree as parents, and some of us as grandparents, that the nurturing supportive family is the best foundation for good child development. Parenting education, skill development, and support for parents and families is essential to improve circumstances for children. That is why early childhood development programs must be a fundamental component of this government's vision for the future.

The third and last point of my presentation concerns population and development. The concept of child development and child security in Canada differs considerably from that of developing countries.

An enabling environment for human development and more particularly children's development involves two fundamental concepts: human development and human security. The two concepts are mutually reinforcing, although distinct. While they are not synonymous, together human security and human development address the twin objectives of freedom from fear and freedom from want. People's freedom to act can be constrained by both fears and for the poorest and the most vulnerable members of society, poverty and insecurity are linked in a vicious circle. Breaking that cycle requires measures to promote human development through access to reliable employment, education and social services. The absence of such guarantees of human security constitutes a powerful barrier to human development regardless of levels of income. If people lack confidence in society's abilities to protect them, they will have little incentive to invest in the future.

[Translation]

On November 24, the Minister of Foreign Affairs, the Honourable Lloyd Axworthy, delivered an address during the Conference on Children's Rights in the New Millennium. He said, and I quote:

To build a world that values human security, we must start with concern and action for those who will inherit it. The Convention on the Rights of the Child was a beginning, a way for the international community to exercise its role of trust for the world's children.

Some years ago, there was a popular French song that said:

Un enfant ça vous décroche un rêve.

So, honourable senators, let us indulge and dream. Share with me the dream that, someday, we can offer all the children of this world what we offer our own children and grandchildren.

On motion of Senator DeWare, for Senator LeBreton, debate adjourned.

[Senator Losier-Cool]

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(Honourable Senator Lavoie-Roux)

Hon. Lucie Pépin: Honourable senators, I rise today to support Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.

I congratulate the honourable senators who, five years ago already, sat on the Special Senate Committee on Euthanasia and Assisted Suicide. All their input and their work proved very productive.

Now, we must do what is necessary to ensure that Bill S-2 is effective and is passed without delay.

[English]

Honourable senators, most of us have been in this situation at one time or another in our lives: being at the bedside of a parent, a relative or friend who is very sick and in terrible pain, often within days or hours of their death. All we wish is for this individual to live what remains of his or her life in relative comfort, peace and dignity. Unfortunately, that comfort and dignity is too often denied. It is denied, not because health practitioners are cruel or unfeeling, but because many of them lack the training to deal with death and dying and because many of them are confused about their legal liability in this matter.

• (1530)

[Translation]

As a former nurse, I am familiar with the challenges palliative care poses for health professionals. All of our training was focussed on getting people better. In fact, the entire medical system is built around the concept of curative care. We have not learned how to help the dying, and for many of us, death is synonymous with failure.

As professionals, we are very aware of legal responsibilities so caution dictates keeping a good distance from death. On the personal level, death may terrify us, and we may have trouble dealing with the emotions of patients and their families after accepting the feeling of emptiness that death arouses in us.

There are so many complex reasons why we feel obliged to maintain life at any cost, even if this is contrary to the patient's wishes and detrimental to his or her dignity and peace.

[English]

I welcome and wholeheartedly support Bill S-2 precisely because it aims to address many of the complex reasons health providers cling to saving lives at all costs. Confusion exists around criminal liability. Bill S-2 aims to clarify existing law and order to ensure that the wishes of patients are honoured in the health care system and that health care professionals have the legal protection and medical standards necessary to focus on respecting their patients' wishes. More specifically, Bill S-2 clarifies the circumstances wherein the withholding or withdrawal of life-sustaining treatment and the provision of pain control that might shorten life are legally acceptable.

As a first step, Bill S-2 spells out, in language easily understood by all, that it is legally acceptable for health care providers to administer medication to patients in sufficient doses to alleviate physical pain, even if that medication may risk shortening the life of that person. The bill states that the decision to provide medication is legally acceptable only in cases where the intent is to alleviate physical suffering, but not in cases where the intent is to cause death.

For those individuals who fear that this clause could open the door to legalizing assisted suicide, I beg to differ. Bill S-2 makes a clear distinction on the basis of intent — intent to alleviate physical pain versus intent to cause death. Distinction on the basis of intent forms the basis of our criminal law. The distinctions are made continuously in our legal system. In the case of homicide, it is on the basis of the intent that we distinguish between manslaughter and murder, so why should the distinction of intent be any less effective in the case of medical decisions?

I do not believe Bill S-2 opens the door to assisted suicide. I do believe, however, that it provides clarification and protection to health care professionals, allowing them to focus on the comfort and dignity of their patients.

[Translation]

Second, bill S-2 stipulates that there is no criminal responsibility when a caregiver withholds or withdraws life-sustaining treatment, provided that the person, while competent, made a valid request to that end.

Honourable senators, any competent adult in Canada has the right to make decisions concerning his or her life, regardless of

whether these decisions are good or bad ones in the eyes of others.

That right is guaranteed by article 7 of the Canadian Charter of Rights and Freedoms: Everyone has the right to life, liberty and security of the person.

Each of us is free to decide which medical treatments we want or do not want, as well as when and how they will be withdrawn. Supreme Court Justice John Sopinka expressed this right very succinctly in his judgment in the *Rodriguez* case, when he wrote:

That there is a right to choose how one's body will be dealt with, even in the context of beneficial medical treatment, has long been recognized by the common law. To impose medical treatment on one who refuses it constitutes battery, and our common law has recognized the right to demand that medical treatment which would extend life be withheld or withdrawn.

Here again, Bill S-2 simply clarifies the circumstances in which medical decisions are legal. The rights and principles at issue are currently enshrined in our legal system.

Bill S-2 then provides who may request that medical treatment may be withheld or withdrawn, on behalf of a patient who is unable to make the decision.

Honourable senators, it is not enough to clarify the legal context of medical decisions, far from it. Third, Bill S-2 calls on the Minister of Health and his provincial counterparts to establish national guidelines on palliative care and the withholding and withdrawal of life-sustaining treatment. These guidelines are essential to the establishment of acceptable medical practice in this area.

Our society is ill at ease with death. We are afraid of it. We do not like to talk openly about it and come to terms with its meaning. Why should it be otherwise for caregivers? Why should we expect them to have innate abilities in the face of death, simply because of their profession?

Bill S-2 also requires health professionals receive better training in palliative care, learn how and when to control pain and interrupt life-sustaining treatment. They must learn to manage the difficulties and emotions generated by terminal illness. Bill S-2 reinforces the legal and social contexts of these medical decisions.

I think that Bill S-2 can go a long way toward having the wishes and needs of patients respected in the health care system so that their comfort and dignity may be protected, toward keeping the preservation of life the goal of health care professionals, but we must give the patients and those near to them the right to decide what best suits them when death is near.

Honourable senators, every family in Canada is affected by this issue. We all know someone who has seen a dear one suffer needlessly and whose wishes were not respected because the caregiver was not familiar with palliative care or feared legal prosecution. Bill S-2 will be welcomed by both health professionals and Canadian families.

I congratulate Senator Carstairs and wish the committee that will study this issue successful deliberations.

[English]

Hon. Mabel M. DeWare: Honourable senators, it is not our intention to delay this bill, but according to my information Senator Lavoie-Roux will be in attendance here next week. I think we owe her the opportunity to address this matter. Therefore, I will adjourn the debate in Senator Lavoie-Roux's name.

On motion of Senator DeWare, for Senator Lavoie-Roux, debate adjourned.

[Translation]

INTERNATIONAL SEARCH OR SEIZURE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Pierre Claude Nolin moved the second reading of Bill S-4, to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada.

He said: Honourable senators, I am pleased to present to you today private Bill S-4 to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada.

• (1540)

That bill was originally introduced by my hon. colleague, Senator Beaudoin, on March 3, during the First Session of the Thirty-sixth Parliament. It died on the Order Paper in September, before second reading.

Honourable senators, in 1982, our country developed a powerful tool to protect Canadians from excessive interference by the State in their private lives. That tool is the Canadian Charter of Rights and Freedoms. Section 32 of the Charter provides:

(1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Section 8 of the Charter provides that every Canadian has the right to be secure against unreasonable search and seizure.

The primary purpose of Bill S-4 is to clarify an important question of law with respect to the application of section 8. Clause 3 of Bill S-4 reads as follows:

Before making a request to a foreign or international authority or organization for a search or seizure outside Canada for the purpose of an investigation of an offence, a competent authority shall apply to a judge or justice for an order authorizing the request.

The purpose of this provision is to protect individuals in Canada against unreasonable search and seizure outside Canada. When a citizen is the subject of an investigation into a alleged offence under a federal statute, the attorney general concerned will have to obtain the prior authorization of a judge as is required in the case of an investigation within Canada. This must be done before any letter is sent requesting the assistance of authorities in another country with the seizure of documents in their country.

Honourable senators, this bill is based on the conclusions of the Supreme Court of Canada in *Schreiber*. The facts in that case were as follows. The respondent, a Canadian citizen, resided in Canada as well as in Europe, and had accounts with the Swiss Banking Corporation in Zurich. On September 29, 1995, the Director of the International Assistance Group, Kimberly Prost, acting for the Department of Justice, signed a letter of request addressed to the competent Swiss authorities seeking their assistance with respect to a Canadian criminal investigation concerning Mr. Schreiber. The Swiss government accepted the letter of request and an order was issued for the seizure of documents and files concerning the respondent's accounts. No search warrant or any other legal authorization had been obtained in Canada before the letter of request was sent.

Further to these events, as part of a special brief presented to the Federal Court, the respondent requested the court to rule on the following question: Did the Canadian standard for issuing search warrant have to be respected before the Minister of Justice and the Attorney General of Canada presented a letter to Swiss authorities requesting them to search for and seize bank documents and files of the applicant, in this case, Mr. Schreiber?

The Federal Court and the Federal Court of Appeal gave an affirmative response to this. The case was appealed to the Supreme Court of Canada. On May 28, 1998, the Chief Justice of the highest court in the land, Antonio Lamer, and Madam Justice Claire L'Heureux-Dubé responded in the negative to the question of law raised by Karl H. Schreiber. According to the Chief Justice, a court order calling for the seizure of banking documents, issued by the Minister of Justice of Canada, and sent to the Swiss authorities, does not involve any provisions of the Charter. The letter of request did not, therefore, contravene section 8 of the Charter or Schreiber's rights. Chief Justice Lamer wrote the following in paragraph 24 of his judgment:

A person who has property or records in a foreign state runs a risk that a search will be carried out in accordance with the laws of that state. He cannot "reasonably expect" that this will not happen, if the laws of the state clearly permit it. Of course, in Canada, the prevailing domestic law must itself be measured against the Charter to determine whether it violates the constitutional privacy right which s. 8 guarantees. However, this Court is much more reluctant to measure the laws of foreign states against guarantees contained in the Canadian Constitution. At the same time, if use of the evidence obtained on the strength of foreign laws affected the fairness of a trial held in Canada, it could be excluded under a combination of ss. 7 and 24(1) of the Charter.

Speaking for the majority, Madam Justice L'Heureux-Dubé was also of the opinion that the Charter did not apply to a foreign government. In the case at bar, the actions of the Swiss authorities were not therefore subject to section 8. As well, it did not apply to the letter of request, because Canada did not proceed to search and seizure.

In their dissenting opinion, Justices Frank Iacobucci and Charles D. Gonthier agreed that the Swiss government was not subject to the provisions of the Charter. They nevertheless felt that Mr. Schreiber had a reasonable expectation of privacy. Canadian authorities should therefore have obtained a warrant before sending the letter of request to the Swiss authorities. The minority therefore concluded that section 8 of the Charter applied in the case of Schreiber. Accordingly, the seizure of bank records requested by the Department of Justice without prior authorization infringed on Mr. Schreiber's right to privacy.

Honourable senators, a number of you have expressed reserves as to the scope of the provisions of the former Bill S-24. Some believe it will impose the provisions of the Canadian Charter of Rights and Freedoms in matters pertaining to privacy on other countries in requests for assistance in criminal investigations. I would reassure you immediately. This bill does not apply extraterritorially. To convince you of the fact, we must first return to the principles guiding the application of section 8 of the Charter in criminal investigations.

Since 1982, the Supreme Court of Canada has set out in a number of decisions the principles defining the scope of section 8

and the way in which it is to be applied. In *Schreiber*, Mr. Justice Frank Iacobucci stated that section 8 provided very few clues as to the scope and object of the interests it was intended to protect.

In 1984, in *Hunter v. Southam Inc.*, Mr. Justice Brian Dickson defined for the first time the object of section 8. It involved the protection afforded persons against unjustified intrusions by the State in their private life. However, the scope of this right was limited by the reasonable nature of a person's expectation of respect of his privacy in the circumstances of a given matter. Mr. Justice Dickson explained this approach in *Hunter*, at pages 159 and 160, in these words:

The guarantee of security from unreasonable search and seizure only protects a reasonable expectation. This limitation on the right guaranteed by section 8, whether it is expressed negatively as freedom from "unreasonable" search and seizure, or positively as an entitlement to a "reasonable" expectation of privacy, indicates that an assessment must be made as to whether in a particular situation the public's interest in being left alone by government must give way to the government's interest in intruding on the individual's privacy in order to advance its goals, notably those of law enforcement.

Therefore, since the *Hunter* case, the notion of "reasonable expectation of privacy" has been the structural principle used to determine whether section 8 applies and protects the rights of a person in a given situation.

• (1550)

Second, in a number of cases, the Supreme Court interpreted section 8 as having the effect of protecting people and not places or things. This principle marked a major change in the object of the right to privacy. It no longer tended to primarily protect property rights regarding the place being searched. Rather, the primary concern was the effect on the person affected by the search or seizure, regardless of the place that was searched. That interpretation of section 8 was restricted neither by the notion of property nor by the applicable right regarding trespassing.

In 1993, this led the Supreme Court to conclude, in *R. v. Plant*, that a person has a reasonable expectation of privacy regarding a set of personal biographical information possessed by others about him or her. Justice John Sopinka, speaking for the majority, said on page 293, and I quote:

— in order for constitutional protection to be extended, the information seized must be of a "personal and confidential" nature. In fostering the underlying values of dignity, integrity and autonomy, it is fitting that s. 8 of the Charter should seek to protect a biographical core of personal information which individuals in a free and democratic society would wish to maintain and control from dissemination to the state. This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual.

It therefore seems clear, according to the court, that the primary object of the right to privacy is the effect of an unreasonable search or seizure on an individual. Where the search or seizure took place is of no importance.

Honourable senators, only one thing remains to be determined in evaluating the extent of power with respect to unreasonable search and seizure, and that is whether this protection should come into play before or after the fact. In *Hunter*, the Supreme Court ruled that section 8 had the effect of protecting privacy rights before the fact. It must not be used, after the fact, to justify or condemn intrusions by the government into the private life of an individual.

In that sense, it has given section 8 an interpretation based on its principle, so that it constitutes more than a mere prohibition against unreasonable search and seizure. As Justice Gerard La Forest explained in 1998 in *R. v. Dyment*, if an individual's right to privacy must be protected, we cannot defend this right only after it has been violated. This is inherent in the notion of protection against unreasonable search and seizure.

Honourable senators, as you know, everyone attaches great importance to his privacy and the means of protecting it. The nature of privacy is such that, once it is invaded, it can rarely be fully restored.

It therefore follows that, for section 8 to effectively protect an individual's reasonable expectation of respect for his privacy, it must produce its effect before the execution of the search or seizure and before the disclosure of the information. Without this protection, it would have very little value as a guarantee of the right to privacy, if it were relied on only to exclude, after the fact, information unreasonably obtained.

That interpretation of section 8 took concrete form in the requirement for preauthorization by the judiciary, as set out by Dickson J. in *Hunter*. In his judgment, he stated that the court ought initially to weigh its decision, taking into account the right to privacy of the individual and the interests of the State in application of the law.

It then became necessary to determine the point at which the court ought to give this authorization. The purpose of this was to prevent unjustified search and seizure before it occurred. This could only be possible with a system for preauthorization before the seizure, not through validation subsequently.

Consequently, according to the highest court in the land, section 8 then becomes involved. The right of the individual to respect of his privacy and the right of the State to apply the law are counterbalanced by application of the process of prior judiciary authorization in advance of the planned search or seizure.

Honourable senators, the courts have also looked at the notion of unreasonable under section 8. For search or seizure to be

considered reasonable rather than unreasonable, it must, according to the Supreme Court of Canada in *Hunter*, 1984:

be authorized in advance by a neutral and impartial individual acting in a judicious manner; be based on reasonable and probable grounds, not just suspicion, and be carried out in a reasonable manner, as opposed to an unreasonable one.

Mr. Justice Antonio Lamer gave, in 1987, in *R. v. Collins*, three other conditions that must be met under the law for a search conducted without a warrant will not be considered unreasonable under section 8:

be authorized by the law; the enabling law itself must not be unreasonable; and the search must not have been carried out in an unreasonable manner.

Thus, a search or seizure that is deemed unreasonable cannot be easily justified as reasonable under section 1 of the Charter. Let us clarify that violation of an individual's physical integrity is the most serious kind of violation, followed by violation of one's home and of one's place of work.

Up to now, the courts have made a distinction between seizure in criminal matters and seizure in administrative matters. The criterion in *Hunter* stated earlier applies rigorously to seizure in the case of criminal matters. The Supreme Court also stated in its decision in *McKinlay Transport* in 1990, that the greater the infringement of the right to privacy, the more the guarantees in the decision in *Hunter* must be respected.

In *Schreiber*, Justices Gonthier and Iacobucci expressed dissenting opinion, as I mentioned earlier, being of the opinion that the seizure of bank records outside Canada without judiciary preauthorization violated the right to protection of privacy.

In reaching this conclusion, Mr. Justice Iacobucci used a broad and liberal interpretation of section 8 of the Charter, as explained earlier. To determine whether the letter requesting assistance contravened the provisions of section 8, he used the guidelines set out in *Plant* by Mr. Justice Sopinka. Their aim was to determine whether a person involved had, with respect to certain information, a reasonable expectation of privacy entitling him to the protection of section 8. At page 293 of the decision, he wrote, and I quote:

Consideration of such factors as the nature of the information itself, the nature of the relationship between the party releasing the information and the party claiming its confidentiality, the place where the information was obtained, the manner in which it was obtained and the seriousness of the crime being investigated allow for balancing of the societal interests in protecting individual dignity, integrity and autonomy with effective law enforcement.

A number of principles may be taken from this interpretation of the application of section 8. First, the authorities responsible for implementing the legislation must be sensitive to an individual's right to privacy, in connection with personal biographical information pertaining to him. The existence of a reasonable expectation of privacy calls into play the guarantees provided by section 8. When such an expectation exists and is threatened by a proposed intrusion by government, the authorities charged with applying the law are required to obtain judicial preauthorization before acting.

• (1600)

Using the contextual framework developed by Mr. Justice Sopinka in *Plant*, Mr. Justice Iacobucci concluded that the respondent had indeed such expectation regarding his Swiss banking records. These documents included personal details about the person, including his financial situation and personal decisions regarding his lifestyle. Second, the relation that exists between a bank and his customer is a relationship of trust which, under *Plant*, generates a higher expectation of privacy regarding the information involved.

Finally, if the information involved is easily accessible without intrusion or without the help of a third party, there would then be less risk of a breach of the privacy of the person concerned. In this case, the information had to be obtained by intrusion in the Swiss bank and with the help of a third party, which tends to indicate that the respondent had a reasonable expectation of privacy regarding that information.

Moreover, as Mr. Justice Iacobucci explained in paragraph 56 of *Schreiber*, and I quote:

The search and seizure was initiated by the Government of Canada by formal request to the Government of Switzerland in the absence of a treaty. The request was in furtherance of a Canadian investigation presumably leading to prosecution of a Canadian in Canada for an alleged violation of the Canadian Criminal Code. The right to privacy, as it has been interpreted under the *Charter*, protects people and not places. The impact on the individual of a search and seizure of bank records is the same whether the search and seizure took place in Canada or in Switzerland. The respondent has a reasonable expectation of privacy with respect to banking information no matter where the accounts are held. It is entirely reasonable, in my view, that the respondent should expect that Canadian authorities will not be able to request the assistance of Swiss authorities in obtaining his Swiss bank records without first obtaining some form of judicial preauthorization in Canada.

The judge therefore responded to the question raised by *Schreiber* in the affirmative and recommended corrections be made to Canadian legislation to correct this unclear point. That is exactly what Bill S-4 is intended to do. Moreover, Justices

Wetston of the Federal Court and Linden of the Federal Court of Appeal reached the same conclusions as the dissident Justices of the Supreme Court in *Schreiber*.

Honourable senators, it is clear that each case is unique. This is why clause 4 of Bill S-4 calls for the competent authority, who may hear the application *ex parte*, to be satisfied that it meets the standards established under the Canadian Charter of Rights and Freedoms. If this is the case, he may make an order authorizing the request to be made as stipulated in clause 5 of the bill.

Honourable senators, before the presentation of other clauses of my bill, I would like to address the matter of its extraterritorial application.

In *Schreiber*, the Chief Justice of the Supreme Court referred to extraterritorial application of the Charter. In so doing, he made use of the *Terry* and *Harrer* decisions, which clearly stated the proposition that the Charter did not apply outside Canada. These two cases dealt with the conduct of American authorities acting in the United States who had taken statements from suspects in a manner which while complying with the American Bill of Rights, was incompatible with the Charter. In both cases, the Supreme Court concluded that the Charter could not govern actions by foreign authorities in a foreign country. This conclusion is compatible with s. 32 of the Charter, which limits application to "the Parliament and government of Canada" and the "legislature and government of each province". It is also compatible with the principle of international courtesy, as pointed out by Justice Beverley McLachlin in *Terry*. According to her, it was unrealistic to expect foreign authorities to be familiar with the laws of Canada and to observe them.

Honourable senators, in *Schreiber*, the situation was different. Already, Justice Wetston of the Federal Court had rejected their submission that to answer the special case in the affirmative would be to apply the *Charter* extraterritorially. It is important to mention that Mr. *Schreiber* did not seek the application of the Charter to foreign law or to the activities of the Swiss government. He never challenged the privacy legislation of Switzerland or of the government of this country when the bank records were seized.

What he found fault with was the preparation and transmission of a letter of request by Canadian agents. These agents were clearly subject to Canadian law, including the Charter, within Canada and, in most cases, outside Canada. Section 32 of the Charter clearly applied to them, as representatives of the executive arm of the Government of Canada. What is more, because they were Canadians, there was no reason to observe international courtesy. They could therefore have been expected to know Canadian law, including the Constitution. It was not unreasonable to require that they respect that law. This is particularly true of agents who were acting on behalf of the Attorney General and who might therefore have additional responsibilities as a result of the special nature of that duty.

I would mention that the author of the letter did not have its contents approved by one of her supervisors. Yet, as I mentioned earlier, this letter clearly stated that the purpose of the request for assistance was to pursue a criminal investigation. It might therefore result in charges being laid in Canada against a Canadian citizen.

In his decision, Justice Wetston concluded at page 944 as follows:

...if the [respondent] can be prosecuted in Canada, I see no reason why he should not be entitled to the corollary benefits of the Charter.

As a result, he concluded that the respondent had a reasonable expectation of privacy. Having so held, and having considered the nature of the information seized, he concluded that section 8 required preauthorization by a neutral judicial officer before the letter of request could be sent. It is therefore clear that the Charter applies generally to such letters of request.

Some of you will be tempted to say that the letter of request is in no way subject to scrutiny based on section 8. You would probably use the example of the procedure a Canadian province must follow to obtain the assistance of another province to conduct a search or a seizure. Currently, the authorities making such a request for help are not obliged to obtain judicial preauthorization pursuant to section 8 before sending their request. It does not apply so long as the request is not received, at which point a warrant must be obtained authorizing the search or seizure.

To that argument, I respond as follows. In the Canadian context, authorities presenting a request know that it will receive judicial examination before the search or seizure is conducted. In the context of *Schreiber*, on the other hand, the Court was not told whether the Swiss authorities would have examined the merits of the request to search or seize made by a foreign government. We do not know what form such an examination would take. However, it was indicated that there was a reasonable expectation that the Swiss authorities would act on the request.

As Mr. Justice Iacobucci mentioned in paragraph 58 of the *Schreiber* decision, and I quote:

It is somewhat formalistic to conclude that the procedure used within Canada to scrutinize interjurisdictional requests for assistance provides a full answer to the present case. A formalistic or legalistic approach is contrary to *Charter* jurisprudence which has long held that the rights that it guarantees must be interpreted generously and in a purposive manner. It is more appropriate to approach the issue on a principled basis. The respondent's reasonable expectation of privacy with respect to the information sought by the Canadian authorities is determined and the

action of the Canadian authorities, the issuing of the letter of request, effectively puts the respondent's privacy interests in jeopardy; s. 8 therefore applies to balance the interests of the state and those of the respondent through a judicial preauthorization procedure. This result is in accordance with the broad and liberal interpretation consistently applied in s. 8 by this Court in an effort "to secure the citizen's right to a reasonable expectation of privacy against governmental encroachments". A failure to apply s. 8 to the letter of request may result in the respondent's privacy interests in effect "falling between two stools".

I say this because through the international situation at play herein, we have no assurance that judicial pre-authorization has been observed such that one of the cornerstones of the s. 8 approach has been ignored.

• (1610)

Canadians are protected in Canada by the Charter of Human Rights and Freedoms. Despite the majority finding of the Supreme Court justices in *Schreiber*, they can be protected by the Charter when out of the country, under certain exceptional circumstances, in particular in connection with the actions of Canadian agents in another country with respect to another Canadian, as established in *Cook* 1998. These conclusions were subscribed to by the former Chief Justice of the Supreme Court.

Honourable senators, during the debate on the former Bill S-24, a number of you raised the issue of the sizeable cost relating to implementation of these measures. Judging by previous years, I estimate that this process of judicial preauthorization can be handled properly without any major costs to the federal government. According to the figures supplied by the Justice Department, in the affidavit accompanying the brief from the Solicitor General of Canada in *Schreiber*, Canada had made 79 such requests in 1992, 80 in 1993, 137 in 1994, 109 in 1995, and 87 in 1996. We have no figures for 1997 and 1998, but I trust that representatives of the Department of Justice will be able to provide them in time for the committee to have them when examining the bill.

I wish to stress that Bill S-24 does not interfere with mutual assistance treaties that bind Canada to other foreign states regarding criminal or administrative investigations. Canada has signed 16 such treaties.

Let us now look at the definitions found in clause 2 of Bill S-24.

"Foreign public official" means a person who holds a legislative, administrative or judicial position of a foreign state or a person who performs public duties or functions for a foreign state. I did not write that definition. It is patterned on a definition found in section 2 of the Corruption of Foreign Public Officials Act, which received Royal Assent on December 10, 1998.

In Bill S-24, "competent authority" means the Attorney General of Canada, the Attorney General of a province or any person or authority with responsibility in Canada for the investigation or prosecution of offences.

"Foreign state" means a country other than Canada, and includes any political subdivision of that country; the government, and any department or branch, of that country or of a political subdivision of that country; and any agency of that country or of a political subdivision of that country. That definition is also patterned on a definition found in the Corruption of Foreign Public Officials Act.

In Bill S-24, "offence" means an offence contrary to an Act of Parliament or any regulation made thereunder. This bill is therefore restricted to federal laws and regulations. The judge varies from province to province. The expression "justice" has the same meaning as in section 2 of the Criminal Code. Finally, the bill is not retroactive.

In conclusion, honourable senators, Bill S-4 will ensure that section 8 will be applied when it can help deter a repeat of an unconstitutional behaviour on the part of Canadian agents, even if the conduct of these agents leads another country to provide its assistance. Under the provisions of the bill, Canada will not be in a position to impose its own procedural standards on other States. However, it will ensure that the right to reasonable expectation of privacy is protected if a search is conducted in Canada or abroad at the request of Canadian agents.

[English]

Hon. Dan Hays (Deputy Leader of the Government):

Honourable senators, Senator Nolin has given us a very thorough legal treatise on what he says is the subject matter of Bill S-24. I must say that it will take me some time to fully understand what he has said, but do I have a question at this time.

As I listened to his speech, it seemed to me that, as he described the situation, there is fairly adequate protection provided by the Constitution now. I am wondering if the honourable senator could give me a précis of his remarks indicating why Bill S-24 is required. I appreciate that it has taken quite a bit of time and litigation, but the court's interpretation of section 8, judging from his remarks, seems to be a fairly complete right to privacy and protection from abuse of process, at least in terms of the complaint in *Schreiber* and some of the other cases.

Senator Nolin: This question goes directly to the heart of the matter. I hope we will be able to send this bill to committee, because that is exactly what we need to study. That is also why I cited many cases from the Supreme Court.

To be fair, the court is contradicting the last 18 years of decisions on section 8 of the Charter. It took a long time to decide on various aspects of the protection under section 8. The

court also took great care in deciding that only Canadian authorities would be bound by the Charter. However, the dissenting judgment from two judges is more in line with what I am proposing to Parliament, given their analysis of section 8.

It is a complex question because it requires this Parliament to decide if the protection in section 8 is protection of the individual or the locus of the action. I am suggesting to you, as was suggested by the two dissenting judges in the *Schreiber* case, that it is the individual, because the Charter protects the individual, not the place where the action is taken. There have been many decisions and much case law from the Supreme Court on this over the years, and *Schreiber*, in my humble opinion, is contradictory. I am suggesting that we should correct that.

In the *Schreiber* case, to make a complex story simple, the Swiss government is only an agent. Everyone else involved in that set of facts is Canadian. The request was made by the Canadian authorities regarding a Canadian individual for future criminal action in Canada.

I do not know if I am giving you a proper answer to your question. I am sure that you will have a better understanding of this complex situation after you have read my speech. I hope this chamber will agree with me that we should send this bill to committee.

On motion of Senator Cools, debate adjourned.

• (1620)

PRIVILEGES, STANDING RULES AND ORDERS

THIRD REPORT OF COMMITTEE—ORDER WITHDRAWN

On the Order:

Consideration of the third report of the Standing Committee on Privileges, Standing Rules and Orders (Senator Kinsella's Question of Privilege), presented in the Senate on November 24, 1999.—(Honourable Senator Austin, P.C.)

Hon. Jack Austin: Honourable senators, Senator Kinsella presented a question of privilege to the Senate on November 24 last. The question relates to a charge that the Department of Agriculture may have attempted to intimidate a witness who appeared before the Standing Senate Committee on Agriculture and Forestry. Consideration was given to this question of privilege at the first meeting of our Standing Committee on Privileges, Standing Rules and Orders following a reference from the Senate. At that meeting, it appeared that the originator of the charge, Dr. Shiv Chopra, might be apprehensive about a kind of double jeopardy, namely, the possibility of further damage to his career by appearing in an open process, and that corroborating witnesses, if any, might also decline to appear in an open process.

The third report of the committee sought to put itself in a position to offer an *in camera* session, if it appeared necessary, to properly investigate the question of privilege. However, as I said when I last spoke to this item, we would seek to consult Dr. Chopra and to obtain his view of how he would be prepared to proceed.

A discussion has been held between Dr. Chopra and the clerk of the Standing Committee on Privileges, Standing Rules and Orders, during which Dr. Chopra responded to two questions put to him. The questions were: First, what was his preference with respect to the committee taking testimony from him *in camera* or in public; and, second, did he or his union have any concerns with the fact that the question of privilege raised by Senator Kinsella might proceed in the committee at the same time that his grievance was being heard by the Public Service Staff Relations Board.

Dr. Chopra replied that it was his understanding that the Senate was not a court where normal rules of evidence are followed. Being a political process, he thought the Senate committee meeting should be open. He did not have a problem with the two streams proceeding concurrently. He told the clerk it would not serve anyone's purpose to have a closed process and that he has nothing to hide. He only wants that the committee process be fair to him, that it be open, and that it go as deeply as necessary to resolve the issue.

Apart from replying to the two questions, he also advised that his lawyer would accompany him to any scheduled meeting of the standing Senate committee, and that he was concerned that the department might hound him afterwards.

Honourable senators, as the question in issue was whether the standing committee should proceed *in camera*, and the witness in question does not have any difficulty in proceeding in an open hearing, I request that the recommendation to hold an *in camera* hearing contained in the third report be withdrawn, and that this debate be considered terminated.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted to withdraw this order?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am surprised to hear from the chairman of the committee that this is being requested after advice from and consultation with a witness. I do not think it is up to a witness to decide how a committee should operate and under what conditions. It is up to the committee to make that decision, and up to the witness to accept those conditions. It seems to me we have done this in reverse. I am most surprised to hear that the chairman is asking that the *in camera* recommendation be withdrawn — I do not know why it was brought in — after consultation with a witness. It is up to the committee to decide

how it should proceed, and the witnesses must abide by any decision the committee makes.

I am not certain that lawyers should accompany witnesses; however, that is a secondary issue. The witness is setting the conditions of his appearance, including whether we should have an open hearing or an *in camera* hearing. That should be a decision of the committee.

Senator Austin: Honourable senators, might I treat that as a question and endeavour to answer it?

Hon. Senators: Agreed.

Senator Austin: Honourable senators, I think it is quite proper for the committee to consider the jeopardy in which a witness might put himself or herself in our pursuit of a question of privilege. Serious sanctions can follow, both sanctions which can be applied by the Senate in certain circumstances, and sanctions which may be applied by the employer of the witness.

Of course, the committee will make the decision. However, I think it is eminently fair that the committee should take into account the jeopardy a witness may face and to give that witness notice of how the committee proposes to proceed. I think it is also fair that the witness be allowed to advise the standing committee of his views.

Honourable senators, the witness intends to appear, and I believe he may appear before the standing committee on Tuesday next.

Hon. Donald H. Oliver: Honourable senators, I should like to ask a question of the Honourable Senator Austin.

During his presentation of the facts, the honourable senator mentioned that the clerk of the committee was told by the witness that the department might "hound him afterwards". Could the honourable senator elaborate on the use of that term? Hound him in what way? Would his job be in jeopardy? What does "hound him afterwards" mean in terms of his employer as a result of appearing before a Senate committee?

Senator Austin: Honourable senators, I am simply quoting what the witness said to the clerk of the committee. I do not believe I should supply an answer to that question, as anything I might say would be totally hypothetical. I have no further information as to what Dr. Chopra means by that phrase.

Senator Oliver: Was the honourable senator concerned that sounded as though he is being intimidated and that he may suffer serious repercussions?

Senator Austin: I thank the honourable senator for assisting me in replying to Senator Lynch-Staunton.

Senator Lynch-Staunton: The point which is being made is that Senator Kinsella suggested that a question of privilege be referred to committee after a ruling of the Speaker. Somehow, the whole format and the whole procedure is being directed by a witness and Senator Kinsella is having no say in it. It seems to me he could have been consulted as to whether he thought that an *in camera* proceeding was appropriate. He only found out about it when the motion was moved in the chamber.

If the witness is suggesting that he will be hounded, surely we should hear more evidence of that than merely the repetition of a phrase that was uttered to the clerk of the committee and the chairman of the committee being unwilling to give us more evidence on the point. If we proceed, will we have a witness appear before us who feels he is being threatened, or could be threatened, or that his job could be on the line because of his testimony before a committee of the Senate? Is that what will happen next Tuesday?

Senator Austin: Honourable senators, whatever will happen next Tuesday will happen. Whatever is put on the record by the witness will be put on the record. Nothing can be gained by asking hypothetical questions. I have, of course, discussed with Senator Kinsella his question of privilege. The Honourable Senator Lynch-Staunton's colleagues are members of the committee, including the deputy chair, Senator Grimard. They are fully aware of every step being taken here and are supportive of the third report as discussed in committee. If the honourable senator's colleagues are not to be consulted by me, and I am to consult someone else, then I would appreciate being so advised.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I would thank the Chairman of the Standing Committee on Privileges, Standing Rules and Orders for the work his committee has done on this issue. He and I had the opportunity to have a short exchange a few days ago. At that time, I had the opportunity to express my concern, as a potential witness before the committee, with the principle of committees meeting *in camera*. However, all principles must be assessed within their context, and I think the committee has done that.

• (1630)

I reference now the subject of an honourable senator giving testimony at a committee meeting, recognizing that what I am about to say is hypothetical; however, I say it for the benefit of the reflection of honourable senators. Happily, this will not be a situation in which a committee decides to hold a meeting *in camera* to hear from an honourable senator who has information germane to the work of the committee. Otherwise, that senator would be placed in the awkward position of being opposed to committees meeting *in camera* and yet having to attend or desiring to attend. This situation is somewhat hypothetical, but the events as described by Senator Austin are satisfactory to me.

The Hon. the Speaker: Honourable senators, leave has been granted. Is it then in order to withdraw the order?

Hon. Senators: Agreed.

Order withdrawn.

RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to religious freedom in China, in relation to the UN international covenants.—(Honourable Senator Austin, P.C.)

Hon. Jack Austin: Honourable senators, on Wednesday, November 24, 1999, Honourable Senator Lois Wilson called the attention of the Senate to religious freedom in China in relation to the UN International Covenants. Her comments were based on her own extensive background in religious affairs. She has served as the Moderator of the United Church of Canada. Senator Wilson also based her remarks on a personal visit to China, which she made as a delegate of the Canadian Council of Churches, which visited China between October 23 and November 5.

Many Canadians in this chamber and throughout Canada have a continuing interest in issues relating to human rights and a particular interest in how such values, which are critical to our own concept of human relationships and social stability, are in fact practised in China. The focus on China is inevitable for the simple reason that China's population makes up about 23 per cent of the world's peoples. The value systems and practices of such a large part of the human population is pivotal to establishing a peaceful and progressive human society worldwide.

There is a clear body of evidence demonstrating that China is concerned to advance human rights practices within Chinese society in order to free the creativity of the Chinese people in the economic and social modernization of China. Senator Wilson's report is, in my experience, a fair, balanced and accurate one on the condition of religious freedom in China. In fact, the invitation to the Canadian Council of Churches to visit China and study religious freedom is, in itself, an expression of China's willingness to engage in open discussion and constructive dialogue about religious freedom as one of the keystones of human rights.

As in any society, limits to freedom must be established in order to guarantee that freedom itself can be preserved and enhanced. How to find that balance is an eternal paradox. One British judge of the last century had to deal with a case where a defendant had called out the word "fire" in a crowded theatre. There was no fire, but the theatre patrons panicked and many were injured in the rush to the exits. The defence alleged a right

of freedom of speech — the right to say anything anywhere regardless of the consequences. The judge concluded his judgment with the terse comment that no person could use freedom of speech to deliberately or recklessly speak a falsehood, which a reasonable man could foresee might cause harm to others.

Chinese ideas of limits to freedom of religion are based on cultural values in historic experiences different from ours. The size of China, its vulnerability to domestic dissent, to foreign invasion and to many other factors, give rise to the pragmatism of state authority and family authority in order to achieve peace and order. Traditions of collective responsibility have been in place for centuries and were, in fact, developed to ensure that safety and survival of the social unit, whether it be family, village, county or province, would endure. Control of individuals' behaviour was seen as critical to the safety and well-being of the unit.

We would recognize this practice in John Stewart Mill's dictum for British social policy as the "greatest good for the greatest number." Of course, authoritarianism in practice often brings with it the human failing of arbitrariness, which does not have built within it the checks and balances against unfairness, immorality, and abuse of ethical norms and practices. As Lord Acton's dictum goes: "Power breeds corruption. Absolute power breeds absolute corruption."

While China is far from the most corrupt country in the world, corruption is still a major problem in a society that is in its early stages of transition from a directed economy on the Marxism model to a socialist market economy, which means a market economy of the kind we understand but one still directed in a strategic and regulated sense by five-year plans and performance monitors.

While there is no doubt that China's political system is authoritarian, it is also true that the people of China are better off in their economic and social freedoms than at any time in the last several centuries. The Government of China may not use the governance methods of the Canadian system, but it is truly devoted to improving the lives of its people and not just to enriching the group in power, as we see in some other national societies.

Canada has engaged with China on many fronts that demonstrate China's increasing commitment to human rights in the individualistic sense in which we understand them. We have joint study teams in the area of legal and judicial practice that focus on such values as the burden of proof, the right to stay silent, the independence of the judiciary, and the role of an independent legal counsel system.

As honourable senators know, the Parliament of Canada in 1998 established the Canada-China Legislative Association with the National People's Congress. Two meetings of parliamentarians have been held, one in China in November, 1998, attended by 12 Canadian parliamentarians including members of the Senate; and one when senior members of the National People's Congress visited Ottawa, Toronto, Winnipeg

and Victoria, to exchange views with federal and provincial legislators. Topics discussed included legislative practice, the role of our official opposition, limits to government control of the lawmaking process, rules of procedure and so on.

The Chinese are very interested in understanding us. We turn are interested in their grasp of the idea that adversarial but peaceful debate does not lead to social and political instability but, in fact, enhances that stability.

Honourable senators may not be aware that the Canada-China Joint Committee on Human Rights was established by Foreign Minister Lloyd Axworthy in April 1997. The purpose of the joint committee is to engage each country in an ongoing dialogue on all aspects of human rights with a special attention to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which both countries have signed but which await ratification by the National People's Congress.

The specific topics dealt with by the joint committee include rights of women and children, the rights of an accused, new criminal law procedure, bilateral human rights cooperation, international human rights cooperation, minority and indigenous peoples' rights, and freedom of religion.

The recent visit to China by Senator Wilson, as leader of the Canadian Religious Freedoms Delegation, was made under the auspices of the joint committee. I should mention that the joint committee's work is active and ongoing. There have been four meetings of the joint committee: Ottawa in 1997; Beijing in 1997; Winnipeg in 1998; and Beijing in 1999.

• (1640)

Canadian members of the committee have done field work in Yunnan province, which contains many minority peoples, and Tibet, where the question of religious freedom is an ongoing debate. Chinese members have visited Ottawa, Winnipeg and Whitehorse. The issue of Falun Gong was discussed at a joint committee meeting in Beijing on November 8 and 9, 1999. On November 4 the issue was again discussed by Senator Wilson and her delegation when they met with senior officials at the Chinese Foreign Ministry in Beijing.

Having said all of this, it needs to be understood that there are many issues relating to human rights practices in China which will engage our attention in the months to come. Social and political unrest in China exists with respect to the vast reform underway in the Chinese economy, where economic efficiency is rendering millions of Chinese economically redundant, and a social security system of a Canadian kind exists to assist them. Corruption in China is much resented by the lower economic and social levels. The arbitrary behaviour of junior officials particularly in the Chinese interior, is a cause of dissension. There is political unrest in Tibet and in Xinjiang where there are ethnically Turkish and Moslem minority. The Chinese government's focus on stability will continue to be given higher priority than structural reforms of the Chinese political and legal system.

In summary, over the last 20 years enormous progress has been made in human rights in China, and I am optimistic that the trend line will be positive. One great impetus will be given by China's accession to the World Trade Organization. Canada and China signed their agreement on WTO accession in Toronto last Friday, November 26, in front of the annual meeting of some 250 members of the Canada-China Business Council. The WTO is a rules-based system with a dispute settlement process. China has clearly signed on to the principle of rule of law. The years ahead will see China engaged in understanding and making that concept work.

Hon. Lowell Murray: I wish to ask the honourable senator a question. I was interested in his report that the Chinese are headed for a market economy but with very strong centralized direction. The next time that my friend is in China for a meeting of the China-Canada legislative group, will he take it upon himself to caution the Chinese that Canada tried just such a formula under his government in the 1980s with such initiatives as FIRA and the National Energy Program, and that it was an unmitigated disaster?

Senator Austin: I will treat Senator Murray's question as argumentative.

On motion of Senator Di Nino, debate adjourned.

THE ESTIMATES, 1999-2000

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY ESTIMATES—DEBATE ADJOURNED

Hon. Lowell Murray, pursuant to notice of December 1, 1999, moved:

That the Standing Senate Committee on National Finance be empowered to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2000; and

That the Committee present its report no later than March 31, 2000.

[Translation]

MOTION IN AMENDMENT

Hon. Fernand Robichaud: Honourable senators, I wish to move an amendment to this motion further to a meeting of the Standing Senate Committee on Fisheries, yesterday evening. This amendment was approved unanimously by all members of the committee:

That the motion be amended by adding, after the words, "Estimates for the fiscal year ending March 31, 2000" the following:

"with the exception of Fisheries and Oceans Votes 1, 5 and 10;

That the Standing Senate Committee on Fisheries be authorized to examine the expenditures set out in the Estimates for Fisheries and Oceans for the fiscal year ending March 31, 2000; and

That the Committee report no later than March 31, 2000".

Hon. Lowell Murray: Honourable senators, the question that arises in light of the amendment moved by Senator Robichaud is the following: An initiative to refer the votes of a single department to another standing Senate committee must be taken at the expense of the broader mandate of the Standing Senate Committee on National Finance. This led to a very lively discussion in the Standing Senate Committee on National Finance the other day.

In our view, even though government votes overall are referred to the Standing Senate Committee on National Finance, nothing prevents another standing Senate committee from having departmental votes that interest it referred to it. The members of the Standing Senate Committee on National Finance do not want our broader mandate to be in any way watered down. I turn the floor over to my colleagues.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a question of Senator Murray, as to the status of the Main Estimates prior to prorogation.

My understanding is that the items dealing with the Department of Fisheries were with the Fisheries Committee in the last session. I am wondering if Senator Murray could explain the apparent change in position. I appreciate the chairs have changed, but why the change in position from the last session to this session, particularly in terms of the Fisheries Committee was and its review of the Estimates of the Department of Fisheries. The committee wanted to hear evidence from the department and others on a matter of special concern to them.

Also, in relation to past practice, I do not believe it is unique for a portion of the Estimates for a particular department to go to a particular committee. Certainly in the other place, I understand that is how they deal with the Estimates in a general way. I point out our treatment of the Supplementary Estimates (A), where certain votes went to joint committees because of the practice of the other place. We referred votes relating to official languages and the Library of Parliament to the respective joint committees.

• (1650)

I would appreciate an answer to that question.

Senator Murray: Honourable senators, I will try to answer. I was chairman of this committee for a year or two a while back, and I have just taken the chair again in this session. The tradition in the Senate is to refer the Main Estimates and the Supplementary Estimates, the entire package, to the Standing Senate Committee on National Finance. In recent years, because other standing committees have wished to examine the Estimates for the particular departments they are interested in, we have taken it upon ourselves to remove the Estimates of that particular department from the mandate of the Standing Senate Committee on National Finance.

I raised that subject with my colleagues on the committee the other day, and they objected to the practice. They objected on two grounds, if I understood them correctly — and I can say that such experienced senators as Senators Cools, Bolduc and Doody were quite firm on this point. Their first ground was that the Standing Senate Committee on National Finance is our Estimates committee and so it is appropriate to send the Estimates, globally, to our committee. Having done so, they contend that nothing prevents another standing committee from obtaining a mandate from the Senate to concentrate on the Estimates of a particular department.

Their second ground was that, if we take the position that any study of the Estimates of a ministry by another standing committee must be done at the expense of the mandate of the Standing Senate Committee on National Finance, then it would not be possible. Once my motion is passed, even with several amendments, the Standing Senate Committee on Agriculture and Forestry, for example, would not be able to undertake a study of the Estimates of the Department of Agriculture. Therefore, we should not accept that any standing committee is in any way prevented from undertaking, in depth, the study of Estimates of a particular department by reason of the fact that the Estimates globally have been referred to the Standing Senate Committee on National Finance.

It might be different if there were some action required on the part of any of us in terms of approving the Estimates or otherwise. As the honourable senator knows, there is not. We report on the Estimates with our views and recommendations, but we are not called upon to approve the Estimates by voting them.

[Translation]

Senator Robichaud: Honourable senators, I would like to explain the reasons behind my proposed amendment on behalf of the chair and the members of the committee. When Senator Murray moved adjournment of the debate on the motion, I did not rise, because Senator Hays had risen. However, if I may, honourable senators, I would like to say that the committee does not want to create any precedents.

In the First Session of the last Parliament, the Fisheries Committee received an order of reference. You will recall that a

motion had been passed. We had forgotten the motion had been passed, we debated a little more and, in the end, decided that the Fisheries Committee would be authorized to study the Estimates of the Department of Fisheries and Oceans. That is what we actually did, and the minister met with us on three occasions.

The members of the committee are completely comfortable, as they are well aware of this issue, since they meet on a weekly basis. It would be in the interest of the Senate for this committee to consider these estimates and question the minister as to how he is implementing all these programs.

In the report we submitted last year, the seventh recommendation in this report was that the estimates of the Department of Fisheries and Oceans be referred to the Standing Senate Committee on Fisheries. This report was approved unanimously by this chamber on June 16. The committee is therefore basing its desire to continue considering the estimates of the Department of Fisheries and Oceans on this report and on the motion, which were adopted.

I wish to assure you that it is not in any way the intention of the Standing Senate Committee on Fisheries to interfere in the mandate of another committee. I firmly believe that our role would be rather one of helping you as, since you have to consider the estimates of all the departments, you will certainly not have the time to hear evidence from each of the ministers and their officials or advisors. The committee has a bit more time to do so because this involves only one department.

We did it last year. We did a good job, questioning the minister. In submitting our report, and one recommendation that was adopted unanimously, we simply wish to continue along the same lines.

[English]

Hon. Anne C. Cools: Honourable senators, I want to clarify exactly what is happening here. Earlier, Senator Murray said he wanted to adjourn the debate and speak later. Are we on the debate now or is Senator Murray planning to move adjournment at the end?

The Hon. the Speaker: Honourable Senator Cools, we are presently on the motion in amendment of the Honourable Senator Robichaud. Senator Murray proposed the adjournment motion, started putting it, and another honourable senator stood up, so did not propose the adjournment motion, and we are presently on Honourable Senator Robichaud's amendment.

Senator Murray: Honourable senators, I was prepared to propose the adjournment of the debate, but as soon as I saw that other senators wanted to continue, I obviously stood down to let the debate continue.

Senator Cools: Then I think perhaps I should add a few words to the debate.

It seems to me that we have a few questions here before us. They could be described as the larger question and the smaller question. The larger question, as Senator Murray has very aptly put it, is the question of the mandate and authority of the Standing Senate Committee on National Finance Committee with regard to the Estimates, and the right of that committee to receive the Estimates in total, in whole, in respect of their study.

I think what Senator Robichaud is essentially claiming is the right or the ability of a committee to ask for a reference from the chamber to study particular votes of the Estimates that are within the particular interest of that individual committee.

• (1700)

The authority from the Senate to study the Main Estimates was given to us, I believe, on March 4, 1999. Honourable senators will recall that that reference lapsed with prorogation in September. We are looking today at the revival of that reference to study the Main Estimates.

On March 4, 1999, as a result of debate on March 3, Honourable Senator Carstairs moved that the motion be modified to read:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2000 with the exception of Fisheries and Oceans Votes 1, 5 and 10, Parliament Vote 10 and Privy Council Vote 25.

Senator Robichaud is, in essence, asking for a revival of that very reference. If one were to review the debate on March 3, one could see that Senator Stewart and Senator Comeau put those requests forth.

We must resolve this matter. It seems clear that it is the larger question as against the smaller question. What we have here is a practice of the House of Commons that is surely creeping in to the routine practice of the Senate. Whereas I have no objection in some instances here and there for some of those votes being referred to some committees, I would not like to see it become a routine practice of this place that as soon as the Estimates arrive here, these various votes are referred to other committees.

Having said that, I await Senator Murray's response on this subject. It seems to me that that is the issue before us. However, the immediate issue, separate from the larger issue, is whether or not Senator Robichaud's committee, Fisheries and Oceans, can have those particular votes for study. We can settle the larger issue over time.

Hon. Sharon Carstairs: Honourable senators, Senator Lynch-Staunton has indicated it is all my fault since I am the one who moved the original motion. However, we have a more serious issue here.

The mandates of the committee are very clear. As stated in the rules, the only committee to which Estimates are sent is the

National Finance Committee. There is no reference in the rules to Estimates being sent to any other committee.

However, what is said in the rules with respect to the committee is that they can study issues generally. One would presume that a general study of fisheries from the perspective of government, would clearly have to include the Estimates. With all due respect, we perhaps need some clarity on this issue and perhaps a ruling.

My opinion is that we should send all Estimates to the National Finance Committee. However, an individual committee, choosing to study the Estimates of a particular department, such as the Fisheries Committee studying the Fisheries Department Estimates, should by separate motion be permitted to study those Estimates without the exclusion of those Estimates from the study by the Standing Senate Committee on National Finance.

That may cause us problems. We certainly got into a problem last week when we tried to refer a bill to two committees at the same time. We decided that that was not the right way to go. Perhaps we do need some clarity in the rules.

In fact, His Honour may decide that this matter should go to the Rules Committee, that he would prefer not to make that decision himself.

[Translation]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I fully agree with Senator Carstairs. I should like to add that rule 86 clearly provides that it is the responsibility of the Standing Senate Committee on National Finance to examine national accounts and government finances.

As for the Standing Senate Committee on Fisheries, the rules provide that:

— on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to fisheries generally.

This is squarely that committee's mandate. It is the role of the Committee on National Finance to make a comprehensive study of the country's financial accounts. It is perfectly normal that some committees may take an interest in certain departments that have programs. Therefore, it is logical to examine these departments' estimates to know whether the programs do achieve the purpose set out in the act relating to these departments.

As for the review per se of national accounts, it would be the responsibility of the Standing Senate Committee on National Finance. But at the same time, each committee, for example the Senate Committee on Fisheries, has the right to examine, on order of the Senate, bills, messages, petitions, inquiries, papers and other matters relating to fisheries generally. It is appropriate for the Fisheries Committee to move a motion to receive the

order of the Senate to conduct a review if such review also includes a financial component relating to that department. Under the *Rules of the Senate*, the mandate given to the Committee on National Finance is completely different.

Studies on issues of national interest always involve a financial component, and it is important not to prevent committees from reviewing that component if they so wish.

[English]

The Hon. the Speaker: Honourable Senator Murray, you have spoken already. Is it your intention to move your motion and adjourn the debate?

Senator Murray: Your Honour, if you are prepared to rule or to suggest that you will take it under advisement, that will do.

The Hon. the Speaker: I should like to make a comment, if I may. My view is that our practice has been to send Estimates to certain committees. I believe we have done it already this session having referred the Official Languages Estimates. The Library of Parliament Estimates have also been referred.

In the past when I was a member of committees, I recall that quite frequently a committee wishing to have a broader mandate would ask to have the Estimates referred to it. That left the committee all the scope in the world to study whatever they wanted in that department without a further reference from the Senate.

It may be that that is not a good practice. However, I know it has been used in the past, and it is something the Senate should consider because it gives that committee a very wide mandate. Senators may then question anything they wish with regard to that department. Under our practices, committees are to study matters referred to them. Therefore, this is a question that only the Senate can resolve. However, the precedent is certainly there.

• (1710)

Senator Carstairs: Honourable senators, we might clarify this matter in the following way: we could have Senator Robichaud withdraw his motion in amendment; We could then adopt the motion to refer the Estimates to the Department of National Finance; we could then ask leave to revert to motions, which would allow Senator Robichaud to move that the Fisheries Estimates be studied by the Fisheries Committee. By following that procedure, we would not weaken the mandate of the National Finance Committee, but we would give the authority to the Fisheries Committee to study the Fisheries Estimates. I do not know if that is a way out of the dilemma, but it might well be.

Senator Murray: Honourable senators, I do not see any reason why that cannot be done.

Hon. Eymard G. Corbin: Honourable senators, I should like to throw a stick in the spokes. The Foreign Affairs Committee also has an interest in this matter, and I propose the adjournment of the debate.

On motion of Senator Corbin, debate adjourned.

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Lowell Murray, pursuant to notice of December 1, 1999, moved:

That the Standing Senate Committee on National Finance be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Motion agreed to.

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Lowell Murray, pursuant to notice of December 1, 1999, moved:

That the Standing Senate Committee on National Finance have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of the Committee's examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

Motion agreed to.

ADJOURNMENT

Leave Having Been Given to Revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government) Honourable senators, with leave of the Senate notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, December 6, 1999, at 4 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, December 6, 1999 at 4 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

THE HONOURABLE GILDAS L. MOLGAT

THE LEADER OF THE GOVERNMENT

THE HONOURABLE J. BERNARD BOUDREAU, P. C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STANTON

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

RICHARD GREENE

LAW CLERK AND PARLIAMENTARY COUNSEL

MARK AUDCENT

USHER OF THE BLACK ROD

MARY McLAREN

THE MINISTRY

According to Precedence

(December 2, 1999)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. Lloyd Axworthy	Minister of Foreign Affairs
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Industry
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. J. Bernard Boudreau	Leader of the Government in the Senate
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. George Baker	Minister of Veterans Affairs and Secretary of State (Atlantic Canada Opportunities Agency)
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Raymond Chan	Secretary of State (Asia-Pacific)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Ronald J. Duhamel	Secretary of State (Western Economic Diversification) and Francophonie
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(December 2, 1999)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg, Man.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver, B.C.
Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Reginald James Balfour	Regina	Regina, Sask.
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ontario	Ottawa, Ont.
William McDonough Kelly	Port Severn	Mississauga, Ont.
Leo E. Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Jean-Maurice Simard	Edmundston	Edmundston, N.B.
Michel Cogger	Lauzon	Knowlton, Que.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Golfe	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	New Brunswick	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
Mabel Margaret DeWare	New Brunswick	Moncton, N.B.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
Normand Grimard	Quebec	Noranda, Que.
Thérèse Lavoie-Roux	Quebec	Montreal, Que.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis Johnson	Winnipeg-Interlake	Winnipeg, Man.
Eric Arthur Bemtson	Saskatchewan	Saskatoon, Sask.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Ronald D. Gitter	Alberta	Calgary, Alta.

ACCORDING TO SENIORITY

Senator

Designation

Post Office Address

THE HONOURABLE

Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Fernand Roberge	Saurel	Ville Saint-Laurent, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
Erminie Joy Cohen	New Brunswick	Saint John, N.B.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	New Brunswick	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Newfoundland	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Ville Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Bon Accord, Alta.
Léonce Mercier	Mille Isles	Saint-Élie d'Orford, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Calvin Woodrow Ruck	Dartmouth	Dartmouth, N.S.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon	Whitehorse, Yukon Territory
George Furey	Newfoundland	St. John's, Nfld.
Melvin Perry Poirier	Prince Edward Island	St. Louis, P.E.I.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
J. Bernard Boudreau, P.C.	Nova Scotia	Halifax, N.S.

SENATORS OF CANADA

ALPHABETICAL LIST

(December 2, 1999)

Senator	Designation	Post Office Address
THE HONOURABLE		
Adams, Willie	Nunavut	Rankin Inlet, Nunavut
Andreychuk, A. Raynell	Regina	Regina, Sask.
Angus, W. David	Alma	Montreal, Que.
Atkins, Norman K.	Markham	Toronto, Ont.
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.
Bacon, Lise	De la Durantaye	Laval, Que.
Balfour, Reginald James	Regina	Regina, Sask.
Beaudoin, Gérald-A.	Rigaud	Hull, Que.
Berntson, Eric Arthur	Saskatchewan	Saskatoon, Sask.
Bolduc, Roch	Golfe	Sainte-Foy, Que.
Boudreau, J. Bernard, P.C.	Nova Scotia	Halifax, N.S.
Bryden, John G.	New Brunswick	Bayfield, N.B.
Buchanan, John, P.C.	Nova Scotia	Halifax, N.S.
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.
Carstairs, Sharon	Manitoba	Victoria Beach, Man.
Chalifoux, Thelma J.	Alberta	Morinville, Alta.
Christensen, Ione	Yukon Territory	Whitehorse, Yukon Territory
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.
Cogger, Michel	Lauzon	Knowlton, Que.
Cohen, Erminie Joy	New Brunswick	Saint John, N.B.
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.
Cook, Joan	Newfoundland	St. John's, Nfld.
Cools, Anne C.	Toronto-York	Toronto, Ont.
Corpin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.
DeWare, Mabel Margaret	New Brunswick	Moncton, N.B.
Di Nino, Consiglio	Ontario	Downsview, Ont.
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.
Eyton, J. Trevor	Ontario	Caledon, Ont.
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.
Finestone, Sheila, P.C.	Montarville	Montreal, Que.
Finnerty, Isobel	Ontario	Burlington, Ont.
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.
Forrestall, J. Michael	Dartmouth and Eastern Shore	Dartmouth, N.S.
Fraser, Joan Thorne	De Lorimier	Montreal, Que.
Furey, George	Newfoundland	St. John's, Nfld.
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.
Ghitter, Ronald D.	Alberta	Calgary, Alta.
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.
Grimard, Normand	Quebec	Noranda, Que.
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.
Hays, Daniel Phillip	Calgary	Calgary, Alta.
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.
Johnson, Janis	Winnipeg-Interlake	Winnipeg, Man.
Joyal, Serge, P.C.	Kennebec	Montreal, Que.
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.
Kelly, William McDonough	Port Severn	Mississauga, Ont.
Kenny, Colin	Rideau	Ottawa, Ont.
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.

Senator	Designation	Post Office Address
THE HONOURABLE		
Kinsella, Noël A.	New Brunswick	Fredericton, N.B.
Kirby, Michael	South Shore	Halifax, N.S.
Kolber, Leo E.	Victoria	Westmount, Que.
Kroft, Richard H.	Manitoba	Winnipeg, Man.
Lavoie-Roux, Thérèse	Quebec	Montreal, Que.
Lawson, Edward M.	Vancouver	Vancouver, B.C.
LeBreton, Marjory	Ontario	Manotick, Ont.
Losier-Cool, Rose-Marie	New Brunswick	Bathurst, N.B.
Lynch-Staunton, John	Grandville	Georgeville, Que.
Maheu, Shirley	Rougemont	Ville Saint-Laurent, Que.
Mahovlich, Francis William	Toronto	Toronto, Ont.
Meighen, Michael Arthur	St. Marys	Toronto, Ont.
Mercier, Léonce	Mille Isles	Saint-Élie d'Orford, Que.
Milne, Lorna	Peel County	Brampton, Ont.
Molgat, Gildas L. Speaker	Ste-Rose	Winnipeg, Man.
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.
Nolin, Pierre Claude	De Salaberry	Quebec, Que.
Oliver, Donald H.	Nova Scotia	Halifax, N.S.
Pearson, Landon	Ontario	Ottawa, Ontario
Pépin, Lucie	Shawinigan	Montreal, Que.
Perrault, Raymond J., P.C.	North Shore-Burnaby	North Vancouver, B.C.
Perry Poirier, Melvin	Prince Edward Island	St. Louis, P.E.I.
Pitfield, Peter Michael, P.C.	Ontario	Ottawa, Ont.
Poulin, Marie-P.	Northern Ontario	Ottawa, Ont.
Poy, Vivienne	Toronto	Toronto, Ont.
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.
Rivest, Jean-Claude	Stadacona	Quebec, Que.
Roberge, Fernand	Saurel	Ville Saint-Laurent, Que.
Robertson, Brenda Mary	Riverview	Shediac, N.B.
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Robichaud, Louis-J., P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Roche, Douglas James	Edmonton	Edmonton, Alta.
Rompkey, William H., P.C.	Newfoundland	North West River, Labrador
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.
Ruck, Calvin Woodrow	Dartmouth	Dartmouth, N.S.
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Sibbeston, Nick	Northwest Territories	Fort Simpson, N.W.T.
Simard, Jean-Maurice	Edmundston	Edmundston, N.B.
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.
Spivak, Mira	Manitoba	Winnipeg, Man.
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.
Stratton, Terrance R.	Red River	St. Norbert, Man.
Taylor, Nicholas William	Sturgeon	Bon Accord, Alta.
Tkachuk, David	Saskatchewan	Saskatoon, Sask.
Watt, Charlie	Inkerman	Kuuujuaq, Que.
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(December 2, 1999)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ontario	Ottawa
4 William McDonough Kelly	Port Severn	Missassauga
5 Jerahmiel S. Grafstein	Metro Toronto	Toronto
6 Anne C. Cools	Toronto-York	Toronto
7 Colin Kenny	Rideau	Ottawa
8 Norman K. Atkins	Markham	Toronto
9 Consiglio Di Nino	Ontario	Downsview
10 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
11 John Trevor Eyton	Ontario	Caledon
12 Wilbert Joseph Keon	Ottawa	Ottawa
13 Michael Arthur Meighen	St. Marys	Toronto
14 Marjory LeBreton	Ontario	Manotick
15 Landon Pearson	Ontario	Ottawa
16 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
17 Lorna Milne	Peel County	Brampton
18 Marie-P. Poulin	Northern Ontario	Ottawa
19 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
20 Francis William Mahovlich	Toronto	Toronto
21 Vivienne Poy	Toronto	Toronto
22 Isobel Finnerty	Ontario	Burlington
23		
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Leo E. Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Michel Cogger	Lauzon	Knowlton
5 Roch Bolduc	Golfe	Sainte-Foy
6 Gérald-A. Beaudoin	Rigaud	Hull
7 John Lynch-Staunton	Grandville	Georgeville
8 Jean-Claude Rivest	Stadacona	Quebec
9 Marcel Prud'homme, P.C.	La Salle	Montreal
10 Fernand Roberge	Sauvel	Ville de Saint-Laurent
11 W. David Angus	Alma	Montreal
12 Pierre Claude Nolin	De Salaberry	Quebec
13 Lise Bacon	De la Durantaye	Laval
14 Céline Hervieux-Payette, P.C.	Bedford	Montreal
15 Shirley Maheu	Rougemont	Ville de Saint-Laurent
16 Léonce Mercier	Mille Isles	Saint-Élie d'Orford
17 Lucie Pépin	Shawinigan	Montreal
18 Marisa Ferretti Barth	Repentigny	Pierrefonds
19 Serge Joyal, P.C.	Kennebec	Montreal
20 Joan Thorne Fraser	De Lorimier	Montreal
21 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
22 Sheila Finestone, P.C.	Montarville	Montreal
23		
24		

SENATORS BY PROVINCE—MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Nova Scotia	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Calvin Woodrow Ruck	Dartmouth	Dartmouth
9 J. Bernard Boudreau, P.C.	Nova Scotia	Halifax
10		

NEW BRUNSWICK—10

THE HONOURABLE		
1 Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine
2 Eymard Georges Corbin	Grand-Sault	Grand-Sault
3 Brenda Mary Robertson	Riverview	Shediac
4 Jean-Maurice Simard	Edmundston	Edmundston
5 Noël A. Kinsella	New Brunswick	Fredericton
6 Mabel Margaret DeWare	New Brunswick	Moncton
7 Erminie Joy Cohen	New Brunswick	Saint John
8 John G. Bryden	New Brunswick	Bayfield
9 Rose-Marie Losier-Cool	New Brunswick	Bathurst
10 Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent

PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Melvin Perry Poirier	Prince Edward Island	St. Louis
4		

SENATORS BY PROVINCE—WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg
2 Mira Spivak	Manitoba	Winnipeg
3 Janis Johnson	Winnipeg-Interlake	Winnipeg
4 Terrance R. Stratton	Red River	St. Norbert
5 Sharon Carstairs	Manitoba	Victoria Beach
6 Richard H. Kroft	Manitoba	Winnipeg

BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver
3 Jack Austin, P.C.	Vancouver South	Vancouver
4 Pat Carney, P.C.	British Columbia	Vancouver
5 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
6 Ross Fitzpatrick	Okanagan-Similkameen	Kamloops

SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 Reginald James Balfour	Regina	Regina
3 Eric Arthur Berntson	Saskatchewan	Saskatoon
4 A. Raynell Andreychuk	Regina	Regina
5 Leonard J. Gustafson	Saskatchewan	Macoun
6 David Tkachuk	Saskatchewan	Saskatoon

ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Ronald D. Ghitter	Alberta	Calgary
4 Nicholas William Taylor	Sturgeon	Bon Accord
5 Thelma J. Chalifoux	Alberta	Morinville
6 Douglas James Roche	Edmonton	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Newfoundland	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland	St. John's
6		

NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

DIVISIONAL SENATORS

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Normand Grimard	Quebec	Noranda, Que.
2 Thérèse Lavoie-Roux	Quebec	Montreal, Que.

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of December 2, 1999)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair:	Honourable Senator Watt	Deputy Chair:	Honourable Senator St. Germain
Honourable Senators:			
Andreychuk,	Christensen,	*Lynch-Staunton,	St. Germain,
		(or Kinsella)	
Austin,	DeWare,		Watt.
Boudreau,	Gill,	Pearson,	
(or Hays)		Sibbeston,	
Chalifoux,	Johnson,		

Original Members as nominated by the Committee of Selection

*Andreychuk, Austin, Beaudoin, *Boudreau (or Hays), Chalifoux, Christensen, Comeau, DeWare, Gill, Johnson
Lynch-Staunton (or Kinsella), Pearson, Sibbeston, Watt.

AGRICULTURE AND FORESTRY

Chair:	Honourable Senator Gustafson	Deputy Chair:	Honourable Senator Fairbairn
Honourable Senators:			
Boudreau,	Ferretti Barth,	Oliver,	Sparrow,
(or Hays)			
	Gill,	Robichaud,	St. Germain,
Chalifoux,		(Saint-Louis-de-Kent)	
	Gustafson,		Stratton.
Fairbairn,	*Lynch-Staunton,	Rossiter,	
Fitzpatrick,	(or Kinsella)		

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Chalifoux, Fairbairn, Fitzpatrick, Ferretti Barth, Gill, Gustafson, *Lynch-Staunton (or Kinsella),
Oliver, Robichaud (Saint-Louis-de-Kent), Sparrow, Spivak, St. Germain, Stratton.*

BANKING, TRADE AND COMMERCE**Chair:** Honourable Senator Kolber

Honourable Senators:

Angus,	Furey,
*Boudreau (or Hays)	Hervieux-Payette,
Fitzpatrick,	Kelleher,
	Kenny,

Deputy Chair: Honourable Senator Tkachuk

Kolber,	Meighen,
Kroft,	Oliver,
Joyal,	Tkachuk,
*Lynch-Staunton, (or Kinsella)	

Original Members as nominated by the Committee of Selection

Angus, *Boudreau (or Hays), Fitzpatrick, Furey, Hervieux-Payette, Joyal, Kelleher, Kenny, Kolber,
*Lynch-Staunton (or Kinsella), Meighen, Oliver, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**Chair:** Honourable Senator Spivak

Honourable Senators:

Adams,	Christensen,
*Boudreau, (or Hays)	Cochrane,
Buchanan,	Eyton,
Chalifoux,	Finnerty,

Deputy Chair: Honourable Senator Taylor

Kelleher,	Spivak,
Kenny,	Taylor,
*Lynch-Staunton, (or Kinsella)	
Sibbeston,	

Original Members as nominated by the Committee of Selection

Adams, *Boudreau (or Hays), Buchanan, Chalifoux, Christensen, Cochrane, Eyton, Furey,
Kenny, *Lynch-Staunton (or Kinsella), Sibbeston, Spivak, St. Germain, Taylor.

FISHERIES**Chair:** Honourable Senator Comeau

Honourable Senators:

*Boudreau, (or Hays)	Cook,
Carney	Furey,
Comeau,	Johnson,
	*Lynch-Staunton, (or Kinsella)

Deputy Chairman: Honourable Senator Robichaud

Mahovlich,	Perry,
Meighen,	Robertson,
Perrault,	Robichaud, (Saint-Louis-de-Kent)
	Watt,

Original Members as nominated by the Committee of Selection

*Boudreau (or Hays), Carney, Comeau, Cook, Doody, Furey, *Lynch-Staunton (or Kinsella), Mahovlich,
Meighen, Murray, Perrault, Perry, Robichaud (Saint-Louis-de-Kent), Watt.

FOREIGN AFFAIRS

Chair:	Honourable Senator Stollery	Deputy Chair:	Honourable Senator Andreychuk
Honourable Senators:			
Andreychuk,	*Boudreau, (or Hays)	De Bané	*Lynch-Staunton, (or Kinsella)
Atkins,	Carney,	Di Nino	Stollery,
Bolduc,	Corbin,	Grafstein,	Taylor.
		Losier-Cool,	

Original Members as nominated by the Committee of Selection

*Andreychuk, Atkins, Bolduc, *Boudreau (or Hays), Corbin, Carney, De Bané, Di Nino, Grafstein, Lewis, Losier-Cool, *Lynch-Staunton (or Kinsella), Stewart, Stollery.*

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair:	Honourable Senator Rompkey	Deputy Chair:	Honourable Senator Nolin
Honourable Senators:			
*Boudreau (or Hays)	De Ware,	*Lynch-Staunton, (or Kinsella)	Poulin.
Cohen,	Forrestall,	Maheu,	Robichaud, (Saint-Louis-de-Kent)
Comeau,	Kelly,	Milne,	Rompkey.
De Bané,	Kenny,	Nolin,	Stollery.
	Kroft,		

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Cohen, De Bané, De Ware, Forrestall, Kelly, Kenny, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Milne, Nolin, Poulin, Robichaud (Saint-Louis-de-Kent), Rompkey, Rossiter, Stollery.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair:	Honourable Senator Milne	Deputy Chair:	Honourable Senator Beaudoin
Honourable Senators:			
Beaudoin,	Cools,	*Lynch-Staunton, (or Kinsella)	Nolin.
Buchanan,	Fraser,	Milne,	Pearson.
*Boudreau (or Hays),	Ghitter,	Moore,	Poy.
	Joyal,		

Original Members as nominated by the Committee of Selection

*Andreychuk, Beaudoin, *Boudreau (or Hays), Cools, Fraser, Ghitter, Joyal, Kelleher, *Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson, Poy.*

LIBRARY OF PARLIAMENT (Joint)

Joint Chair:**Honourable Senator**

Honourable Senators:

Atkins,	Grafstein,	Poy,	Robichaud,
Finnerty,	Grimard,		(L'Acadie-Acadia).
			Ruck.

*Original Members agreed to by Motion of the Senate**Atkins, Finnerty, Grafstein, Poy, Robichaud (L'Acadie-Acadia), Ruck.*

NATIONAL FINANCE

Chair:**Honourable Senator Murray**

Honourable Senators:

Deputy Chair: Honourable Senator Cools

Bolduc,	Doody,	Kinsella,	Moore,
*Boudreau,	Finestone,	*Lynch-Staunton,	Murray,
(or Hays)	Finnerty,	(or Kinsella)	Stratton.
Cools,	Ferretti Barth,	Mahovich,	

*Original Members as nominated by the Committee of Selection**Bolduc, *Boudreau (or Hays), Cools, Finestone, Finnerty, Ferretti Barth, Kinsella, *Lynch-Staunton (or Kinsella), Mahovich, Moore, Murray, Perry, Stratton.*

OFFICIAL LANGUAGES (Joint)

Joint Chair: Honourable Senator Losier-Cool

Honourable Senators:

Deputy Chair:

Beaudoin,	Gauthier,	Meighen,	Robichaud,
Fraser,	Losier-Cool,	Rivest,	(L'Acadie-Acadia).

*Original Members agreed to by Motion of the Senate**Beaudoin, Fraser, Gauthier, Losier-Cool, Meighen, Pépin, Rivest, Robichaud (L'Acadie-Acadia).*

PRIVILEGES, STANDING RULES AND ORDERS

Chair: Honourable Senator Austin
Honourable Senators:

Austin,	DeWare,
Beaudoin,	Di Nino,
*Boudreau, (or Hays)	Gauthier,
Corbin,	Grafstein,
	Grimard,

Deputy Chair: Honourable Senator Cools

Joyal,	Maheu,
Kelly,	Pépin,
Kroft,	Robichaud, (L'Acadie-Acadia),
*Lynch-Staunton, (or Kinsella)	Rossiter,

Original Members as nominated by the Committee of Selection

*Austin, Bacon, Beaudoin, *Boudreau (or Hays), DeWare, Gauthier, Ghitter, Grafstein, Grimard, Joyal, Kelly, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Pépin, Robichaud (L'Acadie-Acadia), Rossiter.*

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Senator
Honourable Senators:

Cochrane,	Furey,
Finestone,	Grimard,

Deputy Chair:

Hervieux-Payette,	Perry,
Moore,	Rivest,

Original Members as nominated by the Committee of Selection

Cochrane, Finestone, Furey, Grimard, Hervieux-Payette, Moore, Perry, Rivest.

SELECTION

Chair: Honourable Senator Mercier
Honourable Senators:

Atkins,	DeWare,
Austin,	Grafstein,
*Boudreau, (or Hays)	Kinsella,

Deputy Chair:

Kirby,	Mercier,
*Lynch-Staunton, (or Kinsella)	Milne,
	Murray,

Original Members agreed to by Motion of the Senate

*Atkins, Austin, *Boudreau (or Hays), DeWare, Fairbairn, Grafstein, Kinsella, Kirby, *Lynch-Staunton or (Kinsella), Mercier, Murray.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair:	Honourable Senator Kirby	Deputy Chair:	Honourable Senator LeBreton
Honourable Senators:			
*Boudreau, (or Hays)	Cook,	Kirby,	Pépin,
Callbeck,	Finestone,	LeBreton,	Roberston.
Carstairs,	Gill,	*Lynch-Staunton, (or Kinsella)	
Cohen,	Keon,	Murray,	

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Callbeck, Carstairs, Cohen, Cook, Di Nino, Fairbairn, Gill, Kirby, Lavoie-Roux, LeBreton, *Lynch-Staunton (or Kinsella), Pépin, Robertson.*

THE SUBCOMMITTEE TO UPDATE "OF LIFE AND DEATH" (Social Affairs, Science and Technology)

Chair:	Honourable Senator Carstairs	Deputy Chairman:	Honourable Senator Beaudoin
Honourable Senators:			
*Boudreau, (or Hays)	Carstairs,	Kirby,	Pépin.
Beaudoin,	Keon,	*Lynch-Staunton, (or Kinsella)	

TRANSPORT AND COMMUNICATIONS

Chair:	Honourable Senator Bacon	Deputy Chair:	Honourable Senator Forrestall
Honourable Senators:			
Adams,	Fairbairn,	Johnson,	Poulin,
Bacon,	Finestone,	Kirby,	Roberge,
*Boudreau, (or Hays)	Forrestall,	LeBreton,	Spivak.
Callbeck,		*Lynch-Staunton, (or Kinsella)	

Original Members as nominated by the Committee of Selection

*Adams, Bacon, *Boudreau (or Hays), Callbeck, Finestone, Forrestall, Johnson, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Perrault, Poulin, Roberge, Spivak.*

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce; Foreign Affairs					
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs					
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		(subject-matter to) Social Affairs, Science and Technology					
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4			

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04							
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							

PRIVATE BILLS

S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02
------	--	----------

CONTENTS

Thursday, December 2, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		Senator Bacon	339
International Day of Disabled Persons		Transport	
Senator Robertson	335	Shutdown of Inter-Canadian Airlines—Effect of Order	
Senator Carstairs	335	Issued Under Section 47 of Canada Transportation Act.	
The Francophonie		Senator Kinsella	339
Senator Gauthier	336	Senator Boudreau	339
National Day of Remembrance		Indian Affairs	
Tenth Anniversary of Tragedy at L'École Polytechnique.		Nova Scotia—Attempted Suicides on Membertou Reserve—	
Senator Callbeck	336	Request for Concrete and Proactive Measures of Assistance	
International Treaty to Ban Land Mines		for Aboriginal Communities. Senator Oliver	340
Second Anniversary. Senator Roche	336	Senator Boudreau	340
Canada-United States Inter-Parliamentary Group		Nova Scotia—Attempted Suicides on Membertou Reserve—	
Fortieth Annual Meeting Held in Quebec City.		Request by Band Leaders for Meeting with Minister.	
Senator Grafstein	336	Senator Oliver	340
Environment		Senator Boudreau	340
Manitoba—North Dakota Devil's Lake		Health	
Senator Johnson	337	Federal Funding Transfers to Provinces. Senator Rivest	340
		Senator Boudreau	341
		Senator Bolduc	341
		Finance	
		Auditor General's Report—Efficacy of Budgetary Long-term	
		Planning. Senator Bolduc	342
		Senator Boudreau	342
		Delayed Answer to Oral Question	
		Senator Hays	342
		Foreign Affairs	
		Increase in Capital Expenditures in Supplementary	
		Estimates (A)—Possible Opening of New Embassies.	
		Question by Senator Stratton.	
		Senator Hays (delayed answer)	342
ROUTINE PROCEEDINGS		ORDERS OF THE DAY	
Public Service Whistleblowing Bill (Bill S-13)		Speech from the Throne	
First Reading. Senator Kinsella	338	Motion for address in Reply—Debate Continued.	
The Hon. the Speaker	338	Senator Atkins	342
Canadian District of the Moravian Church of America		Senator Losier-Cool	342
Private Bill to Amend Act of Incorporation—First Reading.		Medical Decisions Facilitation Bill (Bill S-2)	
Senator Taylor	338	Second Reading—Debate Continued. Senator Pépin	342
Canada-United States Inter-Parliamentary Group		Senator DeWare	342
Report of Fortieth Annual Meeting Held in Quebec City		International Search or Seizure Bill (Bill S-4)	
Tabled. Senator Grafstein	338	Second Reading—Debate Adjourned. Senator Nolin	342
Fisheries		Senator Hays	342
Notice of Motion to Authorize Committee to Study Matters		Privileges, Standing Rules and Orders	
Related to Its Mandate. Senator Comeau	338	Third Report of Committee—Order Withdrawn.	
Notice of Motion to Authorize Committee to Engage		Senator Austin	342
Services. Senator Comeau	338	Senator Lynch-Staunton	342
Notice of Motion to Authorize Committee to Permit		Senator Oliver	342
Electronic Coverage. Senator Comeau	338	Senator Kinsella	342
The Estimates, 1999-2000			
Report of National Finance Committee on Supplementary			
Estimates (A) Presented and Printed as Appendix.			
Senator Murray	339		
QUESTION PERIOD			
Transport and Communications			
Shutdown of Inter-Canadian Airlines—Possibility of Review			
by Standing Committee. Senator Kinsella	339		

	PAGE		PAGE
Religious Freedom in China in Relation to United Nations International Covenants		Senator Carstairs	361
Inquiry—Debate Continued. Senator Austin	357	Senator Kinsella	361
Senator Murray	359	Senator Corbin	362
Senator Austin	359	National Finance	
The Estimates, 1999-2000		Committee Authorized to Permit Electronic Coverage.	
Notice of Motion to Authorize National Finance		Senator Murray	362
Committee to Study Estimates—Debate Adjourned.		Committee Authorized to Engage Services. Senator Murray	362
Senator Murray	359	Adjournment	
Motion in Amendment. Senator Robichaud	359	Senator Hays	362
Senator Murray	359	Appendix	i
Senator Hays	359	Progress of Legislation	i
Senator Cools	360		



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION •

36th PARLIAMENT •

VOLUME 138 •

NUMBER 16

OFFICIAL REPORT
(HANSARD)

Monday, December 6, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Monday, December 6, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

NATIONAL DAY OF REMEMBRANCE

TENTH ANNIVERSARY OF TRAGEDY AT L'ÉCOLE POLYTECHNIQUE

Hon. Joyce Fairbairn: Honourable senators, when I came in to work today, it was enormously sad to reflect that 10 years have gone by since 14 women students were shot to death by a deranged gunman during an ordinary afternoon in L'École polytechnique at the University of Montreal.

Yesterday, it was painful to watch the images of their families and their friends gathering for the unveiling of the monument near the campus that records forever the memory of this tragedy and the names of the victims: Geneviève Bergeron, 21; Hélène Colgan, 23; Natalie Croteau, 23; Barbara Daigneault, 22; Anne-Marie Edward, 21; Maud Haviernick, 29; Barbara Marie Klueznick, 31; Maryse Leclair, 23; Annie Saint-Arnault, 23; Michelle Richard, 21; Maryse Laganière, 25; Anne-Marie Lemay, 22; Sonia Pelletier, 28; and Annie Turcotte, 21.

Honourable senators, as I stand here today, it is particularly painful to know that in spite of the shock, the revulsion, the widespread publicity and awareness that has flowed from this dreadful event, violence against women and children continues to grow in our country and around the world.

At least 51 per cent of all Canadian women since the age of 16 have experienced at least one incident of what our Criminal Code defines as physical or sexual violence, and sexual assaults account for almost one in ten violent crimes. We have moved ahead in the last decade thanks to many champions now in this house on both sides, in particular women such as Senator Sheila Finestone, a former minister responsible for the status of women. We have also moved ahead thanks to a growing number of male colleagues and friends in this country who have rallied to support this mission to end the violence.

We have changed laws. We have changed the terms of punishment under the law, access to weapons. Help for victims and safe havens are multiplying across Canada for women and children. Public awareness campaigns carry on continuously, supported and encouraged by this official National Day of Remembrance.

• (1610)

However, honourable senators, in my view, we still have not succeeded in a meaningful way to eradicate the breeding ground of intolerance, poverty, lack of self-worth and human understanding on which violence thrives.

We talk about opportunity and respect in this society of ours, and we legislate equality in the workplace, but we have not yet marshalled the will and resources to change the attitudes that encouraged the smouldering rage and tipped the mental balance of a man who systematically culled those young women in the classroom, in the hallway and in the cafeteria of L'École polytechnique and gunned them down with a semi-automatic rifle a decade ago. They were picked out because they were women, and, even more disturbing to him, he viewed them as feminists.

Over the years, I have supported women like Suzanne Laplante-Edward, the mother of one of the young victims, Anne-Marie; Heidi Rathjen, a student and friend of many of those killed; and Wendy Cukier, who helped pull the Coalition for Gun Control together. Many colleagues in this house have worked together, across party lines, on this important issue. It has been a tremendous public crusade, the success of which will ultimately be measured as those attitudes change and the statistics are beaten into retreat.

Progress will be seen, as the family core in our society and the system that supports it find a way to raise children with values of kindness and generosity, not the noise of war and urban violence, and silent acquiescence that the damage done behind closed doors is not the concern of a nation.

I would love to tell Suzanne Laplante-Edward and all the other family members whose daughters and sisters are commemorated on this day that we are well on our way to success in honouring the memory of their family members. We can only do that by finding the resources, the methods and the alliances between men and women in our society to cut through that hatred, frustration and fear.

Honourable senators, we are far, far too slow to rise to that occasion. Surely we owe it to the memory of the 14 laid to rest in Montreal in 1989 and the thousands of other victims in our society to make that special effort to get the job done now.

Hon. Erminie J. Cohen: Honourable senators, I, too, rise today as we observe this National Day of Remembrance and Action on Violence Against Women. Today marks the tenth anniversary of the Montreal massacre.

December 6, 1989, was a pivotal moment in Canadian history. That 20-minute killing spree has been deemed the worst single-day massacre on record and was Canada's darkest day. That hateful crime brought much-needed attention to victims of gender-based violence. The massacre demonstrated to both males and females alike that violence against women was a real and threatening enigma within a society that prides itself on civility and compassion. No longer are Canadians able to pretend that these types of hateful crimes only occur south of the border.

Sadly, violence against women continues to be a fact of life in Canada. Wives, mothers, daughters, sisters and friends are raped, assaulted and murdered each and every day. It is also a fact of life that the perpetrators of these crimes are usually men. They are husbands, partners, neighbours and best friends. Social standing or economic situation does not matter.

Men and women alike must stand up and cry out against this shame. These young women who had their whole lives to live deserved so much better. Today is a day not only to remember them and other victims of violence, but to renew our resolve to put an end to this terrible scourge.

December 6, 1999, deserves national reflection on an epidemic that still plagues our society. Across the country, events are taking place to honour the 14 women whose lives were snuffed out before their time. Let us not forget that it is the responsibility of each and every one of us to eliminate violence of any kind anywhere.

Violence, honourable senators, is a societal issue and must be addressed by all of us, whether it be racist violence, domestic violence, child abuse or violence against women, ethnics or gays. A new phenomenon has appeared: violence in the schoolyard. It is pervasive and very prevalent today and totally unacceptable in a civil society. It is a crisis all Canadians must work to eliminate.

[Translation]

Hon. Shirley Maheu: Honourable senators, I should like to speak today on the tenth anniversary of the sad and infamous tragedy at l'École polytechnique in Montreal.

We will recall that, on December 6, 1989, fourteen young women lost their lives at the hands of one man who had no other goal but to kill women.

[English]

His act of hate wounded all Canadians and changed the way many of us thought about violence against women. It is for that reason that, every year since 1991, we remember this tragedy. It is also for that reason that December 6 has been designated National Day of Remembrance and Action on Violence Against Women.

[Translation]

The massacre made us realize that many Canadian women were victims of violence and that the situation was intolerable. Many measures have been taken to resolve the problem, but much remains to be done.

I also want to say to the parents and friends of Barbara Daigneault, Natalie Croteau, Hélène Colgan, Sonia Pelletier, Anne-Marie Lemay, Annie Saint-Arneault, Geneviève Bergeron, Maud Haviernick, Michelle Richard, Annie Turcotte, Maryse Leclair, Anne-Marie Edward, Maryse Laganière and Barbara Marie Klueznick Widajewicz that they will not be forgotten and that we will do what it takes to prevent such events from ever happening again.

[English]

Hon. Sharon Carstairs: Honourable senators, today is the day of remembrance for the 14 women killed at L'École polytechnique, but I hope it remains with us forever. It is not enough that we just remember these women. We must also work to ensure that a tragedy like that never occurs again.

I was deeply distressed last year at the reaction to the Columbine High School killings in the United States. Canadians were too smug. They had forgotten. They said, "Oh, that kind of thing cannot happen in Canada" — but that kind of thing did happen in Canada.

Therefore, on this tenth anniversary, we must ask ourselves: Has anything changed? Is life better in Canada today than it was 10 years ago? More particularly, is life better for women, targeted in that attack?

Certainly we know that the number of female engineering students in Canada has increased dramatically, and that is a positive thing. We know that the Montreal police changed their response procedures, and that has led to changes in response procedures in other cities across this country.

There are remembrance ceremonies on December 6 throughout our country, not just in Montreal, but in my city of Winnipeg and in other cities across Western, Eastern and Atlantic Canada. There are days of action to eliminate violence against women. There is a men's White Ribbon Campaign, and I am very pleased to see so many senators in the chamber today wearing white ribbons.

All of these are extremely important. However, the most positive change for me was the establishment, in 1992, of the federal government's network of five research centres in Canada to conduct research into the causes of family violence and violence against women. These centres were created as a partnership between community, government and universities, with a mandate for research, communication and education.

• (1620)

Honourable senators, as many of you are aware, last year the Prairie Action Foundation was launched to fund Resolve, the centre located in Winnipeg. At that time, I announced that the Province of Manitoba had contributed \$250,000. I am pleased to announce today that we have now raised \$2.7 million to keep the funding of that institute alive and well. That is the type of positive result that should flow from an announcement such as this.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, today we are commemorating a sad and tragic event. On December 6, 1989, a man, Marc Lépine, killed 14 women. He killed them because they were women. This terrible deed took place at l'École polytechnique, in Montreal. Yesterday, a monument was unveiled to honour the victims.

This tragedy is beyond comprehension. We must continue to look at the root causes of that violence. There is no doubt that our society has developed a greater awareness, however, unfortunately, we are not immune to such violence. This is why we must do our utmost to try to prevent it, first by detecting those who have serious behaviour disorders.

Each level of government must act within its own jurisdiction. And each and everyone of us must do his or her share to put an end to all forms of violence, so that society as a whole can benefit from such concerted effort.

I wish to conclude by emphasizing the exceptional courage of the families and friends of the victims. I tell them that they are not alone; we are thinking of them.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, it was ten years ago today, on December 6, 1989, that 14 women were murdered at Montreal's École polytechnique.

[English]

I know I speak for all senators in this place when I say that we remember and empathize with the families and friends of these women, as well as all others who have been marked by this tragedy.

This sad anniversary is a time for reflection. I should like to remind you of the comments made by the Honourable Royce Frith on February 21, 1990, and recorded in the Hansard of that day, when he called the attention of the Senate to the issue of violence against women in Canadian society. We continue to work towards an end to violence against women.

[Translation]

I applaud the efforts of several groups who raised our global awareness and who worked to bring about changes. I also applaud the efforts of my friends in Parliament who worked to eliminate violence against women by passing the Firearms Act, to eliminate the use of self-induced intoxication as a defence for violent crimes, and to strengthen the Criminal Code provisions on high-risk offenders, and many other provisions.

[English]

I believe Senator Frith was correct when he wondered whether this was not a random isolate act but, rather, an act indicating a

deeper social problem. The inauguration of the names of the 14 women at the unveiling of the December 6, 1989 memorial in Montreal yesterday speaks to the issue's importance. The names carved in steel and stone have been designed in such a way that the viewer must decipher the letters to form the names. This is not accidental. This was done so that the names of these women become etched in our consciousness and that their story is not forgotten.

At this milestone in our history, I encourage honourable senators to reflect on the events of December 6, 1989, and to do what you can to ensure that we have — and to the extent that we have not, that we strive to have — a society where there is respect and harmony between men and women.

[Translation]

Hon. Marisa Ferretti Barth: Honourable senators, you can well understand how the memory of this sad event fills me with sadness as a Montrealer.

December 6 will long remain etched in Canadians' memories, because it is the day we commemorate, with the deepest sorrow, the tragic deaths of 14 young women who lost their lives in an act of senseless violence. On the tenth anniversary of the tragedy that occurred at l'École polytechnique in Montreal, I call upon you all not just to condemn violence, no matter what its origins, but also to reflect on the causes of such a desperate act, an act that shook Canadian and Quebec society.

I am sure that the 14 École polytechnique victims whose memories we honour today would want us to take more direct action to change the course of events. For example, we must stop squabbling over the gun control legislation, for the Mini-14 that was used on them 10 years ago is still not banned. It may not be made illegal until January 1, 2003.

We cannot bring the 14 back, but we can act in their name to combat injustice. On reflection, we will see that the greatest injustice is that felt by those who believe that society has abandoned them.

In memory of all the victims of criminal acts, let us seek solutions to poverty, ways to heal suffering and distress, for these are very often what lies behind acts of violence.

[English]

Hon. Mira Spivak: Honourable senators, 10 years ago today, at a little past 5 p.m., a young woman cowered in the student lounge of Montreal's École polytechnique, holding the seat of a broken chair like a shield in front of her and listening to gunshots down the corridor. Her name was Heidi Rathjen. She was one of the survivors of the Montreal massacre and one of the many young women who saw their lives change forever in those 45 minutes when 14 students died and 13 others were wounded.

In the aftermath, Ms Rathjen did something remarkable. Although she was shy and nervous in front of a crowd, she stood up weeks later, before the Congress of Canadian Engineering Students, and presented a petition calling for a law to forbid civilians from possessing assault weapons like the ones used on her friends. These were her words:

I've talked with the victims' parents. They don't want anyone to forget what happened to their daughters and they desperately wish some lasting good could come of this — such as making our society safer.

Ms Rathjen did far more than just talk about it. She spent the next semester distributing petitions. After graduation, she took an engineering job at Bell Canada, but then left it six months later to work full-time on gun control. With Wendy Cukier, she formed the Coalition for Gun Control and the rest, as they say, is history — a history that also involved this chamber.

Many changes have resulted from Ms Rathjen's and Ms Cukier's work — certainly gun control legislation. Today, as we remember the tragic loss of life in Montreal, I think it is fitting to pay tribute to the survivor who made the difference.

• (1630)

NOVA SCOTIA

EIGHTY-SECOND ANNIVERSARY OF HALIFAX EXPLOSION

Hon. J. Michael Forrestall: Honourable senators, it is indeed a sad day for Canada. I want to associate myself with the remarks that have been made with respect to the tragedy in Montreal ten years ago.

I also call the attention of the Senate to another very sad event that happened on this date. Today marks the eighty-second anniversary of the Halifax explosion. While seemingly not directly related to war, it was our need for the things of war that brought to our harbour the materials which so tragically affected the lives of so many of our fellow citizens that day.

The facts of the explosion are well known. The Belgian ship *Imo* and the French munitions ship *Mont Blanc* collided in the harbour. The *Mont Blanc's* deck was crowded with thin drums containing benzol, an extremely flammable material which, when mixed with explosives, became an awful brew. Fires broke out on board the *Mont Blanc* and the crew abandoned her. Naval crewmen from HMCS *Niobe* and HMS *Highflyer* tried to put out the fires but to no avail. Twenty-one minutes later, a little after nine o'clock in the morning, the *Mont Blanc's* cargo of 2,750 tonnes of explosives ignited, causing the worst man-made explosion in history up to that time. The blast was heard as far away as Prince Edward Island and ships at sea felt the waves.

The old north ends of Halifax and Dartmouth were devastated by a near-nuclear-level blast. Stoves and furnaces in destroyed houses ignited what remained of the dilapidated structures and

blazes raged through the city. Worse for the homeless and dazed survivors was the freezing blizzard that followed. Of an urban population of 50,000, more than 1,600 died and 9,000 were injured. Some 13,500 buildings were levelled and 6,000 people were left homeless.

It was an incredible tragedy that is still remembered in our home province. A very fitting commemoration of the event took place at sunrise this morning in Halifax.

I ask honourable senators, as we join in remembering the lives of the women who died on this date so tragically in Montreal, to also remember the tragic loss of the men, women and children in the Halifax explosion.

STATISTICS CANADA

CENSUS RECORDS—CANADIAN AS ETHNIC ORIGIN— EFFECT ON MARKETING POSSIBILITIES

Hon. Lorna Milne: Honourable senators, on a completely different and much more light-hearted subject, lately I have been learning from the opposition and from Question Period to read my morning papers more thoroughly. What I discovered a week ago warrants a statement rather than a question and, in fact, a statement of outrage.

The *National Post* reported that a debate is going on in Statistics Canada as to whether census respondents would be allowed to write in "Canadian" as their ethnic background. This privilege was granted to us rather grudgingly for the first time in 1991. By 1996, common sense had prevailed at Statistics Canada and "Canadian" was cited as an example of ethnic origin.

However, apparently too many of us — 5.5 million in fact — have dared to list ourselves as Canadian. That fact is upsetting the marketing firms who buy data from Statistics Canada. I suspect that many of us are in the same boat as I am and cannot define our ethnic origins in one word. Most people whose families have been in this country for more than one generation cannot claim any single ethnic origin, so I need some help from my fellow senators. What am I? How should I describe myself? I refuse to accept "mongrel"! My background on my father's side is, in alphabetic order, English, German, Irish, Scottish and an always-vaguely-identified lady who I believe was probably Métis.

On the other hand, my mother is of "pure" British stock. Let us not forget that pure British stock is a good mix of Pict and Celt 300 years of Roman occupation that probably accounts for my mother's dark hair and her olive complexion — not to mention successive waves of Anglos, Jutes, Saxons, marauding Vikings and conquering Normans. Two of my grandchildren have European ancestors who came to North America in the early 1600s. Fifteen generations of that family have been born and raised on this continent. So what are we? Chopped liver? How are we to describe ourselves? I believe that we are proud Canadians of typically Canadian mixed heritage.

Hon. Senators: Hear, hear!

Senator Milne: This vigorous and thriving mélange of backgrounds which so many of us here have inherited from our ancestors, is what makes us truly Canadian. I want to add that Canada is one of the very few countries in the world where people of such mixed heritage are accepted and can stand proudly. I say I am a typical Canadian and I say "shame" to Statistics Canada for even considering putting marketing possibilities ahead of allowing Canadians the freedom of choice to describe themselves as they wish. Shame!

ROUTINE PROCEEDINGS

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

REPORT OF COMMITTEE ON SUBJECT MATTER OF PART 1 TABLED

Hon. Michael Kirby: Honourable senators, I have the honour to table the second report of the Standing Senate Committee on Social Affairs, Science and Technology which deals with the subject matter of Part 1 of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act, and Statute Revision Act.

REPORT OF COMMITTEE ON SUBJECT MATTER
OF PARTS 2 TO 5 TABLED

Hon. Michael Kirby: Honourable senators, I have the honour to table the third report of the Standing Senate Committee on Social Affairs, Science and Technology which deals with the subject matter of Parts 2 to 5 of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act.

[Translation]

TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO PERMIT ELECTRONIC COVERAGE

Hon. Lise Bacon: Honourable senators, I give notice that on Tuesday, December 7, 1999, I will move:

That the Standing Senate Committee on Transport and Communications be authorized to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

NOTICE OF MOTION TO AUTHORIZE
COMMITTEE TO ENGAGE SERVICES

Hon. Lise Bacon: Honourable senators, I give notice that on Tuesday, December 7, 1999, I will move:

That the Standing Senate Committee on Transport and Communications have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

[English]

• (1640)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY STATE OF HEALTH CARE SYSTEM

Hon. Michael Kirby: Honourable senators, I give notice that on Tuesday next, December 7, 1999, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of the health care system in Canada. In particular, the Committee shall be authorized to examine:

- (a) The fundamental principles on which Canada's publicly funded health care system is based;
- (b) The historical development of Canada's health care system;
- (c) Publicly funded health care systems in foreign jurisdictions;
- (d) The pressures on and constraints of Canada's health care system; and
- (e) The role of the federal government in Canada's health care system;

That the Committee submit its final report no later than December 14, 2001; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

HUMAN RIGHTS AND MULTI-ETHNIC CONFLICTS

NOTICE OF INQUIRY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I give notice that on Thursday next, December 9, I will call the attention of the Senate to human rights and multi-ethnic conflicts.

CENSUS RECORDS

PRESENTATION OF PETITION

Hon. Lorna Milne: Honourable senators, I have the honour to present a petition with 139 signatures collected this past summer by members of the Yarmouth County Historical Society Museum and Archives. It reads:

We the undersigned wish to express our concern over the decision by Statistics Canada not to transfer the 1911 and subsequent census records to National Archives so that they may be released to the public 92 years after the taking of the census as provided for in Section 6 of the Privacy Regulations.

We wish to have access to ALL census records so that we may continue to use this valuable resource to explore our roots, learn about our ancestors and write about them in family histories for our children and our grandchildren to see. We believe this is important for our societal values and will add to our Canadian heritage.

QUESTION PERIOD

NATIONAL DEFENCE

EAST TIMOR—STATUS OF SEA KING HELICOPTERS

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate which centres around the difficulties facing the Sea King helicopters in East Timor. One had to land forcibly on the water — involuntarily, I suggest — and another one found itself in some other difficulties.

Can the minister tell us if these two pieces of equipment are now flying, particularly the one involved in the forced landing on water?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the first thing I feel compelled to do is to pay tribute to the skill of the helicopter crew. They ran into an operational problem trying to land at sea off East Timor. Fortunately, they were able to safely land the helicopter. After

approximately 10 minutes of mechanical adjustment, they took off again and returned to their point of origin.

The Sea King helicopter, as the honourable senator would well know, is designed to land on water if necessary as easily as it can on land. It is known to be quite a stable design for that purpose.

I would not suggest for a moment that that landing was intentional. It was obviously a response to a mechanical problem, and the situation was handled in a very expert manner by the crew. It was within the capabilities of the equipment and was resolved relatively quickly under the circumstances.

Senator Forrestall: Honourable senators, I would not want to challenge the minister because it might be embarrassing. The Sea King is not intended to operate on water. It will float, but that is about the best that can be said for it.

I was not necessarily asking about serviceability. These planes would not be flying if they were not serviceable and would not be in the air unless they were being flown by very skilled and dedicated people.

Perhaps I did not put my question clearly. Can the minister tell me if the particular Sea King is operational? If it is, will it be able to continue its work? Has the second Sea King suffered any availability or operational problems during its stay in East Timor? Specifically, will the piece of equipment that made the forced landing be able to fly again?

Senator Boudreau: Honourable senators, the information I have is that, as the helicopter landed, boats were immediately dispatched from the HMCS *Protecteur*. The aircrew in fact restarted the engine in approximately 10 minutes, took off, and the helicopter was subsequently flown to Dili airport. A team of technicians was subsequently sent to the airport, according to information I have, to determine the extent of any damage or the need for any repairs.

As is the case in any similar flight incident, a flight safety investigation has been initiated. At this time, I am not able to indicate to the honourable senator what the result of that investigation was or, in fact, whether it is still ongoing.

JUSTICE

POSSIBLE AMENDMENTS TO CRIMINAL CODE INVOLVING CRIMINAL HARASSMENT—INFLUENCE OF BILL S-6

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it is my understanding that a colleague of the Leader of the Government in the Senate, the Minister of Justice, publicly remarked that it is her intention to see amendments brought to the Criminal Code dealing with the area of criminal harassment. We on this side are curious to understand what the policy and intent of the government is in regard to this proposal. More specifically, is the minister able to confirm that the Minister of Justice will be incorporating into that government bill the provisions of Bill S-6, a bill about which our colleague Senator Oliver and others have expressed great interest?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not have the specific details at this time. I am sure the Minister of Justice is aware of Senator Oliver's bill. As to the exact nature of any legislation which will be brought forward by the minister, I would prefer to wait for her to introduce the bill in Parliament. Perhaps at that stage I could deliver more information.

TRANSPORT

REGULATION OF POSSIBLE MONOPOLY IN AIR PASSENGER INDUSTRY—GOVERNMENT POLICY

Hon. Lowell Murray: Honourable senators, my question to the Leader of the Government in the Senate is about the policy of the government in the face of the impending monopoly in the air passenger business in this country.

I understand the Minister of Transport to be saying that he hopes and expects that another company or companies will in due course move into the field and provide competition. Meanwhile, he expresses his reluctance to re-regulate the field and suggests that there is always a reserve power somewhere in the government in the event of price gouging.

My question essentially is to know what the state of play is with regard to the government policy.

• (1650)

Surely this is not the last word. I do not like regulation any more than anyone else, but we will be in a situation where there is a virtual monopoly in this field for an indefinite period of time. That being the case, there will need to be re-regulation. The company cannot be allowed to withdraw services wherever it likes, whenever it likes at will, and it cannot be allowed to price its services as it wishes, when it wishes, to the extent it wishes. There must be re-regulation if there is a monopoly.

Can the Leader of the Government in the Senate assure us that the matter of whether or not to regulate the new monopoly is still an open question before the government, and that the government will take its responsibility seriously and not be compliant and offer a weak policy, such as that suggested by Mr. Collenette in his recent media interview?

Hon. J. Bernard Boudreau (Leader of the Government): I would suggest, honourable senators, that the commitment of the government with respect to the topics raised have been clearly stated by the minister, and I have myself repeated the government's commitment in this place.

The situation is still in somewhat of a flux. As the honourable senator would know, in a short number of days shareholders of one of the major airlines will be voting on whether to accept an offer that has been put before them. Therefore, I hesitate to make

any comment at this stage that may be viewed as impacting on that decision.

However, I can say that the minister has clearly set out the five policy objectives of this government, namely, the protection of consumers against price gouging, continued services to small communities, protection of the rights and concerns of employees, maintenance of competition and, of course, effective Canadian control.

All of these items are commitments by the Minister of Transport and the government. At this stage there are still some items in the private sector to be settled, but those principles will not change. They will remain the cornerstone of government policy in this area.

Senator Murray: Honourable senators, I appreciate the answer of the Leader of the Government and his reminder of those conditions that have been set out by his colleague Mr. Collenette. The situation today is that while Mr. Collenette is taking a very permissive approach in saying that the government will not re-regulate, will not go back to a situation in which the company will need to apply to a government body or public authority before it can raise airfares or withdraw services, and so forth, Air Canada, if you please, is dictating what they will and will not accept. I believe they have read a draft report — a leaked report, perhaps it is a informal report — by a House of Commons committee which makes certain recommendations as to the regime the government should set out. We have the President of Air Canada on his feet, telling the government and Parliament what they will accept. I am struck by the contrast: the toughness of Air Canada purporting to tell us what they will and will not accept, and the rather compliant and passive attitude of the Minister of Transport. Nevertheless, we will see in due course.

Senator Boudreau: When the minister was asked what steps the government would take to ensure that these policy objectives were met and who would ensure that they were met, he specifically indicated that parliamentarians, the Competition Bureau, the Canadian Transportation Agency, the Minister of Transport, and the Governor in Council would play a role. At this stage, both the committee of the Senate and of the House of Commons have looked into this issue. I am confident they have both done very good work and that this work will be taken into account by the minister.

No doubt, the President of Air Canada will wish to express his views, and I am sure that those views will also be taken into account. However, the final decisions and the final structure will rest on the principles that I have enunciated to all honourable senators.

Hon. J. Michael Forrestall: Honourable senators, is the Leader of the Government in the Senate saying that we face the possibility of the government returning to a regulated air industry in Canada?

Senator Boudreau: Honourable senators, at this stage a process is underway. Serious decisions have to be made in the private sector and I think we should let those decisions be made. They will be made shortly, and we should not interfere or attempt to influence in any way the decisions that will be made by private citizens exercising their rights as shareholders.

I am very cautious about that situation. However, the government has indicated at this time the general principles on which any policy will be developed. I believe it is for the Minister of Transport, at a later date, to indicate exactly how these principles will be put into effect.

SHUTDOWN OF INTERCANADIAN AIRLINES—
SERVICE TO SMALL COMMUNITIES

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the minister continues to repeat the five principles of his colleague, the Minister of Transport, one of which is service to small communities. We have had the shutdown of InterCanadian, which affects small communities in the area from which the honourable senator comes. I wonder whether the minister can tell this house how many airports in Atlantic Canada that were previously and solely serviced by InterCanadian are now without service?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question. I was looking briefly for my notes, but my recollection is that the number is three.

Senator Kinsella: Would the leader name them?

Senator Boudreau: There are two in New Brunswick, which I am sure the honourable senator is very familiar with, and one in Newfoundland.

Senator Kinsella: Our colleague the Honourable Senator Cochrane pointed out the other day that Stephenville was one, and in northeastern New Brunswick there are two. Do the people in Stephenville and northeastern New Brunswick not count in the minds of this government?

Senator Boudreau: Honourable senators, my understanding is that at this time all but those three locations in Atlantic Canada, are being serviced by an alternate carrier. Those three locations, Stephenville, Newfoundland and Charlo and Chatham, New Brunswick, are being serviced by Air Nova in Bathurst. According to my information, that service is 60 kilometres or so away, which is not the best situation but it is an alternative.

With respect to Stephenville, it is being temporarily served through the centre of Deer Lake, which is approximately 113 kilometres away. Again, not the best circumstance but hopefully a temporary situation. I might say that Stephenville has been problematic in the past with respect to air service, even before the recent events.

Senator Forrestall: What about Sydney?

REGULATION OF POSSIBLE MONOPOLY
IN AIR PASSENGER INDUSTRY—GOVERNMENT POLICY

Hon. Lowell Murray: Honourable senators, I have one final supplementary question, to try to bring to a head my concern and for purposes of clarification: Will the minister assure the Senate that the government will not permit an unregulated monopoly to exist in air passenger travel?

Hon. J. Bernard Boudreau (Leader of the Government): I can say to the honourable senator that the government will protect those interests which have been clearly spelled out by the Minister of Transport in his policy.

• (1700)

INTERNATIONAL TRADE

COLLAPSE OF WORLD TRADE ORGANIZATION DISCUSSIONS—
AGRICULTURAL SUBSIDIES OF MEMBER STATES—
ASSISTANCE TO CANADIAN FARMERS

Hon. A. Raynell Andreychuk: Honourable senators, in light of the WTO talks collapsing this past weekend and the issue of agriculture being foremost in the minds of some senators in this chamber, I recall that the Minister of Agriculture, the Leader of the Government in the Senate, other ministers and the Prime Minister have said that a key to helping Western Canadian farmers is to eliminate the excessive agriculture subsidies of the Americans and particularly the Europeans. It appears now that this goal is a long way from becoming a reality.

What is the government's present fallback position to assist the farmers, and how will it attack the excessive subsidies that exist in the European and American systems? It would appear that there is now no strategy to assist the western farmers.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, it is quite clear to everyone that the results obtained in Seattle with respect to the issue of farm subsidies were not satisfactory and did not make the progress we had hoped.

However, it would be wrong to conclude that these discussions have come to an end. Under the auspices of the WTO, discussions to eliminate or deal with the subsidies given by the United States and European Union countries will continue to be addressed.

We hope that progress can be made, and the fact of the matter is that this subject remains a top priority for the minister and for the government.

Senator Andreychuk: Honourable senators, I appreciate that the talks are a priority. They have been since 1947. My difficulty is that there was an expectation that these talks would produce something that would allow us to see the light of day in five to 10 years. This is clearly not the case now. Even if the talks continue, a satisfactory result will not appear for some time.

What will the government do to assist the farmers in Saskatchewan in light of the fact that the WTO talks have been stalled and obviously been put back? Does this ensure that the government will revisit the assistance and support packages for western farmers today?

Senator Boudreau: Honourable senators, I re-emphasize that these discussions will continue under the auspices of the WTO. They will continue to receive priority attention from the minister and the government. I will say also to the honourable senator that in discussions with the minister, he has indicated that negotiations will continue on the renewal of the joint federal-provincial safety net programs and, hopefully, in ways that will continue to support Canadian farmers.

Senator Andreychuk: Honourable senators, will this include addressing transportation issues that are presently pending? It seems to me that the only subsidy ever lifted was the Crow subsidy. That suspension of policy has led to many ancillary difficulties for western farmers. Will consideration be given to looking at the issue of transportation costs for farmers in Western Canada?

Senator Boudreau: At this stage, I cannot indicate precisely the nature of the discussions which are taking place between the federal and provincial governments. Perhaps I might obtain that information and, if possible, share it with the honourable senator.

Senator Andreychuk: I would appreciate that information in writing, as I understand that there have been discussions with the railways to cap profits, if I may use that term, or the excess that they are gathering in the transportation of wheat and agricultural products. I should like a written answer to the entire transportation policy as it affects Canada.

Senator Boudreau: I shall undertake to provide that written reply in such detail as I am able.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 17, 1999, by the Honourable Senator Spivak regarding the authority for regulating substances entering rendering plants.

HEALTH

AUTHORITY FOR REGULATING SUBSTANCES ENTERING RENDERING PLANTS—GOVERNMENT POLICY

(Response to question raised by Hon. Mira Spivak on November 17, 1999)

The federal government does have the authority to regulate the composition of rendered products and the rendering industry. In fact, all animal protein meals and fats

intended for use in animal feeds are regulated under the federal *Feeds Act*. These rendered products must comply with the standards set out in the Feeds Regulations and must not contain contaminants that would be harmful to animals or pose a risk to food safety.

In addition, since 1997, the Canadian Food Inspection Agency (CFIA) has been licensing operators of all rendering plants in Canada annually for compliance with the federal *Health of Animals Regulations* respecting the ban on feeding mammalian proteins to ruminants. Rendering plants are inspected annually to verify that they are maintaining the required records, that they have appropriate controls in place to avoid cross-contamination and that they are properly labelling their products.

For many years, parts of slaughtered domestic animals have been processed for use as high-quality protein sources in livestock feeds. In April 1996, the World Health Organization recommended that all countries impose a ban on the feeding of ruminant meat and bone meal to ruminants. This includes cattle, sheep and goats, for example. This was part of the process of trying to eliminate all known risk factors in the transmission of bovine spongiform encephalopathy (BSE) or "mad cow disease."

In 1996, extensive consultations with the affected industries took place in Canada, resulting in a feeding ban being implemented in August 1997. With the introduction of this ban, farmers may no longer use "prohibited materials" as ingredients in ruminant feeds.

However, farmers can still use these materials in feed for non-ruminant animals, such as poultry and swine. Canada's decision not to include pigs and poultry in the mammalian to ruminant feed ban was based on the fact that there have been no naturally-occurring transmissible spongiform encephalopathies (TSEs) reported in pigs and poultry. The continued use of these products in swine and poultry feeds eliminates any need to incinerate or landfill these products.

To ensure that the rendering industry is appropriately regulated, the CFIA has initiated a rendering policy review.

BUSINESS OF THE SENATE

POINT OF ORDER—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before I call Orders of the Day, I am prepared to rule now on the question raised by the Honourable Senator Corbin with regard to the use of the word "minion" by the Honourable Senator Cools.

I wish to thank the Honourable Senator Corbin for having brought the matter before the Senate, as the issue of comments made in this house or in the other place about each other or about the Governor General is important. As honourable senators, we must always be cautious never to use language that could in any way be considered offensive to persons in other high positions.

However, I have read carefully the comments of Senator Corbin in this matter. He quoted from the *Concise Oxford Dictionary*, 9th edition, about the meaning of the word "minion". While he did say it was used usually in a derogatory fashion, it does have other meanings.

I went to other dictionaries, notably the one we have here on our Table. I find that in this dictionary, the *Shorter Oxford English Dictionary*, the word "minion", in most of the statements here, is considered to be a complimentary term. It is, first, a beloved object, darling or favourite; a lover or lady love; also a mistress or paramour; one specially esteemed or favoured; a favourite idol or a favourite of the sovereign. However, it does say "or servile defendant." Most of the statements are complimentary.

Therefore, I would rule that the term "minion" is not an offensive term in its general use. However, I repeat that we must be very cautious not to use offensive terms regarding other people or institutions of importance in our country.

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Lewis, for the second reading of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act.

The Hon. the Speaker: Honourable senators, I wish to inform the Senate that if the Honourable Senator Kirby speaks now, his speech will have the effect of closing debate on second reading.

Hon. Michael Kirby: Honourable senators, my comments today will be very brief for the simple reason that earlier today I tabled two reports from the Standing Senate Committee on Social Affairs, Science and Technology in connection with Bill C-6.

As honourable senators will recall, some two weeks ago this house decided to suspend debate on second reading while the Standing Senate Committee on Social Affairs, Science and Technology considered the subject matter of Bill C-6, what we would have called a "pre-study" in the old days. The results of the hearings and committee deliberations on that subject matter have been placed in two reports that were tabled in this chamber an hour or so ago.

At this time, it is not my intention to speak to the content of those reports. I intend to do that tomorrow or the next day. I would simply make the observation that one of those two reports recommends amendments to Bill C-6 that were unanimously passed by the committee earlier today. They have the support of all members of the committee. It is my hope, therefore, that by closing the debate, completing second reading today and hopefully referring the bill back to the Standing Senate Committee on Social Affairs, Science and Technology, the committee can meet tomorrow morning to consider the report. After that, our intention is to report to this chamber tomorrow afternoon. In that report, we will once again repeat the amendments contained in the report I tabled a few moments ago. At that time, with leave of the chamber, it would be my intention to address and begin debate on the amendments.

• (1710)

Honourable senators, rather than get into the subject of the two reports I tabled today, which subject matter I would propose to address as soon as the actual report is before the house tomorrow, with those few remarks about the future process as we see it unfolding, I should like to terminate debate on second reading.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kirby, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

MOTION TO INSTRUCT SOCIAL AFFAIRS, SCIENCE
AND TECHNOLOGY COMMITTEE TO DIVIDE BILL
INTO TWO BILLS—DEBATE ADJOURNED

Hon. Lowell Murray: Honourable senators, I hope you would agree with me that the precedents and authorities hold that the time to move an instruction to a committee is just after the bill has been referred to that committee. In that connection, I would draw His Honour's attention to motion number 22 standing in my name since November 24, which is moving an instruction to the standing Senate committee. I believe it would be in order to have that brought forward now, and, if it were, I should like to speak to it.

The Hon. the Speaker: Honourable senators, this will be a matter for the Senate to decide. Beauchesne's is quite clear in this regard, and I refer you to the 6th edition, paragraph 684:

The time for moving an Instruction is immediately after the committal of the bill, or, subsequently, as an independent motion.

Thus, it could be done now, if the Senate so agrees, or it could be done subsequently.

Is it your wish, honourable senators, to proceed now to bring forward the motion standing in the name of the Honourable Senator Murray?

Hon. Michael Kirby: Honourable senators, I agree completely that we should proceed with the issue that Senator Murray wishes to raise. It is absolutely consistent with the essence of the reports that were tabled today, and allowing him to speak now will enable the committee to do its work more thoroughly tomorrow. I hope he will proceed.

The Hon. the Speaker: Is it your wish, honourable senators, that we proceed in that manner?

Hon. Senators: Agreed.

Senator Murray: Honourable senators, pursuant to notice of November 24, 1999, I move:

That it be an instruction to the Standing Senate Committee to which Bill C-6 will be referred: That they have the power to divide Bill C-6, An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory

Instruments Act and the Statute Revision Act, into two Bills; the first consisting of Part 1 and Schedule 1 with Titles and a coming into force clause and the second consisting of the remainder of the Bill and Schedules 2 and 3 with Titles; that any proceedings on the second Bill may stand postponed until after the consideration of the first Bill; that either Bill may be reported to the Senate as soon as it has been considered; and that, notwithstanding the usual practice, the Senate give this instruction at any time while the Bill is before the Senate, even after committee consideration of the Bill has commenced.

Honourable senators, a few days ago, when we were discussing in this chamber the progress of Bill C-6 through the Senate, I gave certain undertakings on behalf of Her Majesty's Loyal Opposition. I did so with the approval of the leadership on this side. Essentially, the undertakings were that if there was a disposition on the part of the committee to amend this bill to take account of concerns that have been expressed, notably in the health care sector, that we, for our part, would do everything reasonable to expedite passage of an amended bill so it could be considered by members of the House of Commons in good time before they adjourn for the Christmas recess. I rise now to confirm that commitment on our part.

However, that commitment leaves this motion in some difficulty. If I were to press the motion to a debate and eventual vote, it could easily have the effect of delaying the passage of an amended bill through this place and upsetting the commitment that I made earlier. Therefore, I simply want to say that I do not intend to press it in that way. I will make a few remarks on the issue now and suggest that, when I finish, a colleague may wish simply to adjourn the debate.

This is a serious matter that I raised. I think it is serious in terms of the rights of Parliament. I believe there is no doubt about the facts. This bill is really two bills made into one. I had somewhere — and may still have them, if I can find them — quotations from the Minister of Justice and later from officials in the Department of Industry in which they confirmed that the bill started out as two bills and ended up as one bill. I had intended to place those quotations on the record. Unfortunately, honourable senators will have to take my word for it because in this mass of paper that I have here, there does not seem to be included the statements that Ms McLellan and the officials from the Department of Industry made when they were before the House of Commons committee on Bill C-54.

Ms McLellan stated very clearly that, while she did not want to divulge any cabinet secrets, it was a fact that she and Mr. Manley had wanted to go forward with two separate bills, but that, for reasons having to do with the management of parliamentary time, it was decided to marry them into a single bill. A woman by the name of Stephanie Perrin from the Department of Industry, who has appeared before the House of Commons and more recently the Senate committee, confirmed that beyond any doubt.

When officials of the Department of Industry were before the Senate committee, I questioned them on this matter but I did not get very far. They, of course, wished to put their best foot forward. They stated that the entire bill was an integral part of the government's legislative framework for e-commerce. They glossed over the fact that the privacy provisions of this bill go well beyond e-commerce. They apply to personal information collected in the course of commercial activity by any means, electronic or otherwise. The fact is that Part 1 is a bill on its own.

• (1720)

Honourable senators, I had a few second thoughts about my motion when a man by the name of Ian Lawson came before the committee. He is a lawyer from Vancouver, and an acknowledged expert in privacy matters. Mr. Lawson advanced the argument that, constitutionally, Part 1 of the bill depends on Part 2. I will not tire you with that quote because I do not think I have it either. Again, however, I ask you to take my word for it. He went on to say, however — and this was a statement that concerned me considerably — that if Part 1 of the bill were enacted alone, it would be vulnerable to a constitutional challenge, so closely related was it to the e-commerce provisions in Parts 2 to 5. That gave me pause until Roger Tassé appeared before the committee today. As you know, Mr. Tassé is a former deputy minister of justice and a constitutional expert. The argument that Mr. Lawson made was, it is not unfair to say, dismissed by Mr. Tassé. He explained to us, in his usual cogent and detailed manner, why it is that the whole bill and all of its provisions represent a proper and legitimate exercise of the federal government's trade and commerce power.

I return to the point that I made here at second reading. This is really two bills and not one. It does not qualify under a proper definition of what an omnibus bill should contain because there is certainly more than one principle contained in this bill. It is extremely important, from a parliamentary point of view, that we do everything we can to discourage the government from trying to play fast and loose with parliamentary practice and tradition when it comes to submitting legislation. If we do not, we will find ourselves in a position — and this may be a slight exaggeration, but arguing to the ridiculous extreme — where a government would want to bring in one bill at the beginning of every session entitled “a bill to implement the policy of the government”, and throw everything but the kitchen sink in there. We would have one second reading debate, one committee reference, one third reading debate and we would all go home. I admit this is *reductio ad absurdum*, but I hope you see the danger that this kind of practice poses.

In other words, it is an imposition on the right of Parliament to have a bill with a clearly enunciated principle placed before Parliament so that parliamentarians can debate the principle and the provisions of the bill in relation to that principle. From a practical point of view, I expressed the fear, during second reading, that a great deal of attention is being paid to what we think is the more controversial part of this bill, namely, the privacy provisions in Part 1; and that insufficient attention is being paid to those parts of the bill that deal with electronic

commerce, with the ability of citizens to communicate with the federal government's agencies by electronic means, and with the powers under the Canada Evidence Act of the judicial system to operate on the basis of electronic communication. These are extremely serious matters, but there was virtually no examination of those aspects of the bill at the House of Commons committee hearings and there was virtually none when the subject matter of the bill was placed before our Senate committee.

Honourable senators, you have only to look at the third report of the Senate's Social Affairs Committee, which was tabled earlier, to see what has happened. The report says that “witnesses before the committee focused almost entirely on Part 1 of Bill C-6. As a result, there were few comments on Parts 2 to 5.” One concern expressed, however, was that all stakeholders be consulted when regulations under Part 2, relating to secure electronic signatures, are developed. It then says that, “The committee did not receive sufficient evidence on Parts 2 to 5 of the bill in order for it to comment on the specific provisions of these parts.” Nevertheless, the committee notes that there would appear to be broad support for these parts of the bill.

Well, honourable senators, if it turns out, some months or years down the road, that there were lurking, in the many provisions contained in Parts 2 to 5, problems that no one had identified or foreseen, then the government and Parliament will look like complete fools when people look back and see and track the progress of this bill first through the cabinet and then the legislative process. Not only did we hear no witnesses on Parts 2 to 5 of the bill, we gave no attention, in our consideration of the subject matter of the bill, to those parts. That may not turn out to be a problem, but, then again, maybe it will.

Honourable senators, while I am not pressing forward with my motion, for reasons that I explained earlier, I want colleagues to understand how seriously we on this side view the matter. We believe that everything possible should be done to challenge the government when they bring in a bill that is really two bills, as they have done in this case, and they are doing so only as a matter of convenience for the house managers in the other place. This is a matter that should have been protested in the most vehement terms by the opposition in the other place if it went by without notice there. However, that is another story, and it points, again, to the importance of this chamber as a revising chamber and as a check on the executive.

On motion of Senator Kirby, debate adjourned.

CRIMINAL RECORDS ACT

BILL TO AMEND— REPORT OF COMMITTEE—
DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, to amend the Criminal Records Act and to amend another Act in consequence, with amendments) presented in the Senate on November 30, 1999.

Hon. Lorna Milne: Honourable senators, as Chair of the Standing Senate Committee on Legal and Constitutional Affairs, I have the honour to speak to the report on Bill C-7, to amend the Criminal Records Act and to amend another act in consequence. It proposes a number of changes to the pardon system under the Criminal Records Act.

• (1730)

In particular, it would create an exemption to the general rule of non-disclosure of pardoned records for the purpose of screening sex offenders from positions of trust or authority in relation to children or other vulnerable persons.

The bill is reported back with amendments. However, before I explain the amendments, I want to provide with you some background. In June of this year, the Solicitor General appeared before the committee to promote the bill, then known as Bill C-69. Throughout that meeting and the others that followed, it became clear to your committee that there were several problems with the bill as drafted. On behalf of the committee, I sent a letter to the Solicitor General citing our concerns, namely, that we were troubled by the lack of any express reference to the intent of the bill to pertain to records of pardoned sexual offences. We were also concerned that certain substantial elements of the bill would be placed in the regulations to the bill. We failed to understand, for example, why the listing of offences covered by the bill would be left to the Governor in Council and not subject to parliamentary scrutiny. As well, we wondered why such important terms as "children" and "vulnerable persons" could not be defined in the legislation as opposed to in the regulations.

During our deliberations, we also wrangled with the underlying policy considerations of the bill and wondered whether we would be creating a fundamental change to the pardon system, something that has been championed by several of our predecessors in this chamber. I also raised this matter in my letter to the Solicitor General.

I never hesitate to give credit where credit is due, and I must tell you, honourable senators, that the work of your committee was greatly aided by the cooperation of the Solicitor General. Not only did he promptly reply to our letter, but he and his officials addressed all of our concerns and prepared suggested amendments in short order. As we did not have time to make these changes in the previous session, officials from the Solicitor General's office appeared before us last week to discuss this bill once more and to present the committee with proposed amendments to the bill to address our concerns.

On behalf of the committee, I thank the Solicitor General and his officials for their attentiveness to our concerns and for their assistance in responding to them with proposed improvements to the bill.

The bill is reported back with the following principal amendments. First, the definitions of "children" and "vulnerable

persons" are moved from the regulations and placed into the body of the bill. As well, the term "handicap" is deleted from the definition of "vulnerable persons." It is redundant. The committee noted that the use of the term "handicap" is no longer acceptable in today's society. It is no longer the practice to use the term in legislation.

Second, the word "sexual" was added to clause 6 of the bill in order to make it clear that it is only sexual offences that would be flagged under the proposed system. Third, the schedule of sexual offences was removed from the regulations and placed in the bill itself.

Honourable senators, this is certainly not the first time — nor, I am sure, will it be the last — that we have improved legislation from the other place. The changes made by your committee to Bill C-7 have ensured a clear, narrow and limited exception to the Criminal Records Act. These changes have maintained the balance between the rehabilitative objectives of the pardon system and the need to protect children and other vulnerable groups in society.

Hon. A. Raynell Andreychuk: Honourable senators, I certainly support Senator Milne's comments. I applaud the excellent work carried out by the committee members in their scrutiny of this bill. I support the amendments. However, I want to put two issues on the record. The Criminal Records Act, as it is being amended regarding pardons, represents the first massive intrusion into an issue that the public previously understood clearly to mean that a pardon, once granted, disallowed one's past record from being used against them in any way.

I recall, as a young solicitor, that it took some time for the public to understand what the pardon system was all about. It is working well now, to the benefit and the advantage of Canadians. The competing interest is the protection of children and vulnerable persons from those who would seek unlawfully to work with them. However, I must nonetheless sound some concern about the integrity of the pardon process.

Throughout the hearing, the minister and officials indicated that they were well aware that this act would be an intrusion into the pardon system and that it could potentially lessen or undermine the entire pardon process. They countered with the claim that effective control mechanisms would be used by the police, who would be in charge of the system. While I have the highest respect for the police services in Canada, it is incumbent upon this government to ensure systematic and effective scrutiny of the police control processes.

We recently heard assurances, regarding the Elections Act, that privacy would be maintained in that system. Yet, through some inadvertence, all the records of Manitoba drivers have gone missing. It would be intolerable if the pardon system did not retain its integrity. It would be unconscionable not to scrutinize and maintain the flagging system. It must be used only for checking the criminal records of those involved in sexual offences.

My concern is that systems decay over time. Those in charge of this system, perhaps in a time of short resources, may take shortcuts that would endanger the integrity of the system.

Once this pardon system is open, will there be a tendency to open it further for additional purposes? The stated purpose in this case is laudable, but it should be an exceptional instance and there should be no other similar pieces of legislation brought forward.

Ms Paddy Bowen, the executive director of Volunteer Canada, testified before the Legal Committee during the last session. She stated that the most important thing she could say was that, in the opinion of Volunteer Canada and based on research, screening is not the same as doing a police record check. She said that, in fact, there is a limited utility to doing police record checks because the vast majority of people who will perpetrate abuse against a child or another person have never been convicted of a crime. Thus, they are not in the police records system.

We have had a tendency, over the last number of years, to pass legislation that lulls the public into believing that somehow the ill which we were trying to correct has abated. Volunteer Canada and many other witnesses before the committee stated that screening is the issue and not police checks. Very few of the people who are abusing children or who seek out employment where they will have the opportunity to abuse children already have a criminal record. They have been devious and have avoided the criminal system thus far. In such cases, a police check is of little benefit.

• (1740)

I trust that the government, in highlighting this bill, will take the extra opportunity to ensure that it protects children. I must pay tribute to Volunteer Canada for their screening procedures, as well as other major groups, such as the Boy Scouts of Canada, that work with young people and have set in place valuable

screening processes. Children will be protected if there is an adherence to screening processes.

With these two comments, I support the bill as it is amended. However, I sound some caution about intruding into the pardon service. I sound the caution to the government that this act will not eliminate children being molested by those who seek out work in areas where children could be vulnerable. I believe that the government and the citizens of Canada have a responsibility to be ever alert for children and that this bill is only one small tool in assisting them.

On motion of Senator Nolin, debated adjourned.

EUROPEAN MONETARY UNION

REPORT OF FOREIGN AFFAIRS COMMITTEE ON STUDY— ORDER STANDS

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs entitled: "Europe Revisited: Consequences of Increased European Integration For Canada," tabled in the Senate on November 17, 1999.—(*Honourable Senator Hays*)

Hon. Peter A. Stollery: Honourable senators, I should like the consideration of the fourth report of the Standing Senate Committee on Foreign Affairs to stand in my name.

The Hon. the Speaker: Honourable senators, is it agreed that the item stand in the name of the Honourable Senator Stollery?

Hon. Senators: Agreed.

Order stands.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Monday, December 6, 1999

	PAGE		PAGE
SENATORS' STATEMENTS			
National Day of Remembrance			
Tenth Anniversary of Tragedy at L'École Polytechnique.			
Senator Fairbairn	363	Justice	
Senator Cohen	363	Possible Amendments to Criminal Code Involving Criminal	
Senator Maheu	364	Harassment—Influence of Bill S-6. Senator Kinsella	368
Senator Carstairs	364	Senator Boudreau	369
Senator Beaudoin	365	Transport	
Senator Hays	365	Regulation of Possible Monopoly in Air Passenger Industry—	
Senator Ferretti Barth	365	Government Policy. Senator Murray	369
Senator Spivak	365	Senator Boudreau	369
		Senator Forrestall	369
Nova Scotia		Shutdown of InterCanadian Airlines—	
Eighty-second Anniversary of Halifax Explosion.		Service to Small Communities. Senator Kinsella	370
Senator Forrestall	366	Senator Boudreau	370
		Regulation of Possible Monopoly in Air Passenger Industry—	
Statistics Canada		Government Policy. Senator Murray	370
Census Records—Canadian as Ethnic Origin—		Senator Boudreau	370
Effect on Marketing Possibilities. Senator Milne	366	International Trade	
		Collapse of World Trade Organization Discussions—	
		Agricultural Subsidies of Member States— Assistance to	
		Canadian Farmers. Senator Andreychuk	370
		Senator Boudreau	370
		Delayed Answer to Oral Question	
		Senator Hays	371
		Health	
		Authority for Regulating Substances Entering	
		Rendering Plants—Government Policy.	
		Question by Senator Spivak.	
		Senator Hays (Delayed Answer)	371
		Business of the Senate	
		Point of Order—Speaker's Ruling. The Hon. the Speaker	371
ROUTINE PROCEEDINGS			
Personal Information Protection and			
Electronic Documents Bill (Bill C-6)			
Report of Committee on Subject Matter of Part 1 Tabled.			
Senator Kirby	367	ORDERS OF THE DAY	
Report of Committee on Subject Matter of Parts 2 to 5 Tabled.		Personal Information Protection and	
Senator Kirby	367	Electronic Documents Bill (Bill C-6)	
		Second Reading. Senator Kirby	372
Transport and Communications		Referred to Committee.	372
Notice of Motion to Authorize Committee to Permit		Motion to Instruct Social Affairs, Science and Technology	
Electronic Coverage. Senator Bacon	367	Committee to Divide Bill into Two Bills—Debate Adjourned.	
Notice of Motion to Authorize Committee to Engage Services.		Senator Murray	373
Senator Bacon	367	Senator Kirby	373
		Criminal Records Act (Bill C-7)	
Social Affairs, Science and Technology		Bill to Amend— Report of Committee— Debate Adjourned.	
Notice of Motion to Authorize Committee to Study		Senator Milne	375
State of Health Care System. Senator Kirby	367	Senator Andreychuk	375
		European Monetary Union	
Human Rights and Multi-Ethnic Conflicts		Report of Foreign Affairs Committee on Study— Order Stands.	
Notice of Inquiry. Senator Kinsella	368	Senator Stollery	376
Census Records			
Presentation of Petition. Senator Milne	368		
QUESTION PERIOD			
National Defence			
East Timor—Status of Sea King Helicopters.			
Senator Forrestall	368		
Senator Boudreau	368		



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Cœur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 17

OFFICIAL REPORT
(HANSARD)

Tuesday, December 7, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Tuesday, December 7, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

HIS EXCELLENCY MR. FARÈS BOUEZ

LEBANON—MEMBER OF PARLIAMENT FOR KESROUAN

Hon. Pierre De Bané: Honourable senators, in my capacity as President of the Executive of the Canada-Lebanon Parliamentary Group, I am pleased to draw attention to the presence in Canada of His Excellency Mr. Farès Bouez, who represents Kesrouan in the Lebanese Parliament. He is also the chair of the Canada-Lebanon Parliamentary Group and was his country's minister of foreign affairs for close to eight and a half years, starting in 1990.

Mr. Bouez is the son of eminent jurist and parliamentarian Nohad Bouez and Mrs. Jacqueline Bouez, née Debs. He and his wife, Mrs. Zalfa Hraoui, are the proud parents of four children, Rhea, Nouhad, Tarek and Andréa. His Excellency chose the same career as his father, his uncles and his cousins. He holds a Master's degree in Lebanese law from the Université St-Joseph in Beirut, specialized in French law in the Faculté Jean-Moulin, in Lyon, and studied as well at Georgetown University in Washington.

We are delighted to welcome Mr. Farès Bouez. He arrived in Canada on Sunday, December 5, and will be with us until the end of the week. He has already had a working session with the Minister of Foreign Affairs, Mr. Lloyd Axworthy, their second, as he had received Mr. Axworthy in Beirut during our minister's official visit to Lebanon. During his stay in Canada, Mr. Bouez will be meeting with the diplomats at the Department of Foreign Affairs who monitor the situation in the Middle East, as well as senior officials of the Canadian International Development Agency.

In Parliament, Mr. Bouez also gave a talk to the Middle East Study Group on the situation in the Middle East. He will also be speaking this afternoon at the University of Ottawa, where he will be the guest of the Rector, Marcel Hamelin. He will also be received by the Speaker of the Senate, the Honourable Gildas Molgat, and will meet with officials of the other House in our Parliament.

During his visit here, Mr. Bouez will visit Montreal and will be received officially by Mayor Pierre Bourque. He will also meet with researchers at the Institute of Strategic Studies. He will

be received by the Chairman of the Board of the ICAO, Dr. Assad Kotaite, an eminent citizen of the Republic of Lebanon.

While he is here, Mr. Bouez will meet representatives of the Lebanese Canadian community. I would like to mention the exceptional contribution made by this community.

The Hon. the Speaker: Honourable senators, the three minute period is up. Does the senator have leave to continue his statement?

Hon. Senators: Agreed.

Senator De Bané: Honourable senators, the Lebanese community is not only present, but it stands out in all sectors in Canada, be it university education, medicine, law, business or at top levels of the Canadian public service. We remember the important role played by two doctors of Lebanese extraction in connection with two premiers of Quebec.

Beyond the geographic distance, which in reality fades with the emergence of the global village, Beirut is as close to us as other Canadian cities. Thanks to modern telecommunications and Internet technology, our two countries share the same values of democracy, tolerance, liberal economy and religious and cultural pluralism. In addition, the presence in Canada of a large Lebanese community solidifies and gives permanency to close relations between our two countries.

Canada strongly supports the independence, sovereignty and territorial integrity of Lebanon. It also supports Security Council Resolution 425 and the extension of Lebanese authority over its whole territory.

Last summer, at the Sommet de la Francophonie held in New Brunswick, Canada welcomed the President of the Lebanese Republic. We were pleased to note that President Lahoud's first visit outside the Middle East took place in Canada. Incidentally, Lebanon is the only Middle East country that is a full-fledged member of the Francophonie. The next Sommet de la Francophonie, which will follow the one held in New Brunswick, will take place in Lebanon, in the year 2001.

In conclusion, honourable senators, Lebanon embodies the exemplary values of tolerance, generosity and tenacity. It suffered the hardships of a terrible war ignited and fuelled by foreign powers, but it overcame that ordeal thanks to the courage and tenacity of its population. It is a model for the whole world. I also want to express to the Speaker of the Lebanese Parliament, His Excellency Mr. Nabih Berri, and to the President of the Lebanon-Canada Parliamentary Group, His Excellency Mr. Farès Bouez, our determination to work in close cooperation with them to strengthen the relations between our two countries.

[English]

HUMAN RIGHTS

Hon. Calvin Woodrow Ruck: Honourable senators, over 200 years ago, a great emancipation took place both in the British Empire and in the United States of America, wherein the black male, the black female and black children were physically freed from the shackles of slavery. However, in this enlightened age blacks are still judged by the colour of their skin.

Honourable senators, we have come a long way since the days of slavery. My ancestors were slaves. Now, however, we live in a democratic country where many opportunities are available to us. The human rights legislation of 1977 has come a long way in terms of assisting visible minority people to engage in the benefits and the things that this great country of ours has to offer, but, as a country, we do have some problems in terms of staying together. I have recommended to people that we continue to work together so that individuals are no longer judged by the colour of their skin but by the character of their heart.

Human rights legislation has made it possible for me to live in any part of Nova Scotia. Prior to the Human Rights Act, blacks were banned from certain sections of cities. We were supposed to live in areas comprised of "visible minority persons only." Human rights legislation rectified that. While we have come a long way and there is still a longer way to go, I agree with those who say that Canada is the best country in the world!

SUDAN PEACE PROCESS

Hon. Lois M. Wilson: Honourable senators, in the last nine months there have been some important developments in the civil war in Sudan. The conflict between the north and the south has not abated, and the capacity for pumping many more barrels of oil has increased since the completion of the pipeline from southern Sudan to Port Said in the north. The international community, including Canada, has made monies available to support a small four-person secretariat based in Kenya, under the auspices of the Inter-Governmental Authority on Development, known as IGAD. This African initiative, charged with brokering a peace plan, is supported by the International Partners Forum, of which Canada is one.

On October 26, 1999, Canada's Foreign Minister announced two appointments — mine, as special envoy to the Sudan peace process, and John Harker's, as special advisor on African issues. The two appointments are complementary but different in focus, reflecting Canada's public policy on Sudan. My focus will be on reinvigorating the peace process after wide consultations with Canadian NGOs, academics, the Sudanese community in Canada, and envoys of sister countries that support the mediation process, as well as with the government and the armed opposition of Sudan.

This week, for example, some of us will meet with Mr. Bethuel Kipligat, a Kenyan civil society leader working on a Track 2 peace process designed to effect reconciliation between leaders of the Sudanese NGO communities of both the north and the south, backed by the Waterloo-based Project Ploughshares and the Montreal-based Alternatives. The following week, I will host an Ottawa meeting with Dr. Haruun Ruun and Telar Ring Deng, representatives of the New Sudan Council of Churches, which body includes peace-building and working with IGAD on north-south solutions, as well as coordinating church development work in that war-torn country.

Canada's position is that nothing short of a monitored comprehensive peace plan is acceptable. The work of reinvigorating the peace process is of a long-term nature; that is, there is no "quick fix." John Harker's team of experts is already in Sudan and his mandate has been fully reported in the media. He will make his report early next year.

Canada's policy is slightly more complex than that of the U.S.A. in that it includes a lively dialogue with Canada's private sector. If it becomes evident that oil extraction is either exacerbating the conflict in Sudan or resulting in violations of human rights, then consideration will be given to using economic or trade restrictions or other instruments that may be at hand.

Only an accelerated movement towards a just peace will allow all Sudanese to enjoy equitably the benefits of this natural resource. That is why Canada has made the two complementary appointments and appears to move at a more measured pace than our neighbour to the south, for example, in attempting to resolve these thorny issues.

VIOLENCE AGAINST GAYS AND LESBIANS

Hon. Erminie J. Cohen: Honourable senators, on November 7, 1999, Robert Peterson, a first-year law student at the University of New Brunswick in Fredericton, was brutally attacked while walking home late in the evening. The attacker was cowardly and jumped Mr. Peterson from behind, kicking his face repeatedly. He spewed hateful, anti-gay slurs at a young man who deserves so much better. Approximately two weeks later, a similar incident occurred in the same downtown area.

Honourable senators, I rise today in response to a call for action from concerned New Brunswick citizens. Amid hurt and hatred, one thing is clear: The leaders of our nation must take a stand and speak out against the prejudice and violence that is eroding our streets. Robert Peterson is not the first gay or lesbian individual to come face to face with such viciousness in our streets, nor will he be the last — that is, unless we, as a society, stand up and voice our outrage. Only by speaking out against this type of bigotry and discrimination can we begin to see an end.

As a Jew, this blatant act of hatred appalls me. We should have learned from the horrors of the Holocaust what hatred does to a person, a family, a community and a nation. I find this type of racism and discrimination deplorable. It is appalling that ignorant people continue to judge their neighbour by race, religion or sexual preference. These characteristics do not define the person as a whole and, only through understanding, can we move past the stereotypes and put an end to prejudice.

• (1420)

Honourable senators, hate-mongering against gays and lesbians should not be concealed or ignored. It should be exposed. By ignoring the problem, we license them to practise. By standing up and saying enough is enough, we are demonstrating our concern for the victims. We must not be complacent. As a nation, we should strive to understand our differences and live in harmony. Gays and lesbians have the right to feel safe walking home at night as do we all. They are human beings. The type of cowardice illustrated by Robert Peterson's attacker runs deep, laced with hatred and bigotry.

Mr. Peterson is now planning on leaving UNB and relocating from the Fredericton area. What a shame that an outspoken and brave young man should feel the need to leave his new community and school, all due to ignorance, intolerance and bigotry. I applaud his courage to come forward and share the hurt that has been inflicted on him. I can only hope that we, as leaders, will set the example for the entire country and show moral leadership by speaking out against these hate crimes.

CANADA-UNITED STATES RELATIONS

PROBLEMS AT BORDER CROSSINGS

Hon. Jeremiah S. Grafstein: Honourable senators, later this day I will table the report of the Canadian delegation to the Fall Conference of the CAN/AM Border Trade Alliance held in Washington, D.C., from September 12 to 14, 1999. Joe Comuzzi, of the other place, and I, as the Canadian co-chairs of the Canada-United States Inter-Parliamentary Group, were invited to speak at this benchmark meeting of important trade stakeholders on both sides of the border.

Honourable senators will know that two-way trade between our two countries now exceeds \$1.3 billion per day and is growing daily. Two-way trade has quadrupled in the last decade. Unhappily, border-crossing points suffer from traffic jams, gridlock and congestion. Long, costly delays are the order of the day. I estimate there are three levels of government as well as private authorities and at least 17 government agencies on both sides of the border with some governance responsibility for our border-crossing points. We can only note a deficit in leadership to renovate this bureaucratic barrier to trade efficiency that clogs our border corridors every day.

With the advent of "just-in-time" inventory practices and "just-in-time" product delivery exploding because of the Internet, this cancer of gridlock will intensify and metastasize daily. The

result is that Canadian productivity and competitiveness will continue to suffer. To date, there has been no master plan to ease this self-evident and eroding condition. Rather than political leadership, we encounter bureaucratic avoidance, inefficiencies and — worse — turf wars.

Joe Comuzzi and I joined members of the U.S. Congress — including Senators Moynihan of New York State, Senator Abraham of Michigan and our old friend and colleague Senator Frank Murkowski of Alaska, co-chair of the Canada-United States Inter-Parliamentary Group — as guest speakers. All of us brought home forcefully, each in our own way, the same message.

Our American colleagues have awakened to the problem. Massive investments in road and real infrastructure has just been allocated by Congress. This priority of investment has not been matched by the Canadian side. Leaders, ministers and ambassadors have yet to meet to work out a common plan to sort out this bureaucratic morass.

Honourable senators, only when our actions match our words will we become a trading nation on the ground as well as in the air. Hopefully, the millennium will wake up our responsible governments to act on their responsibility to benefit all Canadians.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— PROPOSAL TO DECLARE OTTAWA UNILINGUAL ENGLISH

Hon. Marie-P. Poulin: Honourable senators, I rise today to express a strong disappointment with what many of us read in today's *Ottawa Citizen* and on the first page of *Le Droit*. I find it surprising and shocking that the capital city of this bilingual country would not have its language duality declared officially in the regional restructuring legislation now before Queen's Park.

What kind of message is sent to Canadians across this land when a freshly-minted capital, the seat of the federal Parliament, still clings to the vestiges of unilingualism? Is the provincial government so anxious to impose a massive overhaul of the region yet sublimely indifferent to its francophone component?

Senator De Bané: Shame!

Senator Poulin: Surely it would be a simple matter for the Government of Ontario to declare Ottawa a bilingual region, along with the other restructuring recommendations in Mr. Glen Shortliffe's admirable report.

[Translation]

Honourable senators, it is much more than a local or provincial issue. It is a matter of national pride.

Canada plays a key role on the international scene. Ottawa regularly welcomes heads of states from all over the world. Ottawa is where ambassadors and their staff work to promote the diplomatic and trade relations of their respective countries with Canada.

Ottawa is also where the Parliament of Canada and the bulk of the federal public service are located, and it is a place where parliamentarians and public servants can choose to live in English or in French.

[English]

Honourable senators, I call upon you to join me in urging the Government of Ontario to rethink its actions and to restore the concept of a new, bilingual capital city of Ottawa, the bilingual capital of Canada, into its current restructuring legislation.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I wish to add my welcome to that of the Honourable Pierre De Bané, because I have often met with Minister Bouez and the Ambassador of Lebanon.

On this day when representatives of a multi-constitutional country are paying a visit to a country that calls itself bilingual and multicultural, it is a pity that the news to which Senator Poulin referred is breaking.

[English]

I will not abuse this privilege today. I will come back to this matter. You all know what I think of this country and you all know what I think of Ottawa. Ottawa is the capital for all Canadians.

[Translation]

It would be unthinkable for Ottawa to be the national capital and for only one of the two official languages to be spoken there, for French Canadians and other French-speaking Canadians not to be able to say that Ottawa was their capital as well.

[English]

• (1430)

I will not say anything more now because this will be a long debate, but I will return to the subject. I am certain that honourable senators wish to join with Senator Poulin and others in saying that something must be done so that Ottawa truly reflects what Canada is all about. We say many things around the world, and we should start by reflecting them here in Ottawa, Canada.

[Senator Poulin]

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I call your attention to the presence in our gallery of Mr. Farès Bouez, Lebanon's former minister of foreign affairs and President of the Canada-Lebanon Parliamentary Friendship Group.

[English]

Mr. Bouez is accompanied by His Excellency the Ambassador of Lebanon to Canada.

[Translation]

ROUTINE PROCEEDINGS

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE

Hon. Céline Hervieux-Payette, a member of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 7, 1999

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

SECOND REPORT

Your Committee, to which was referred the Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, has examined the said Bill in obedience to its Order of Reference dated Wednesday, November 24, 1999, and now reports the same without amendment.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE
Member of the Committee

[English]

BILL REFERRED TO FOREIGN AFFAIRS COMMITTEE

The Hon. the Speaker: Pursuant to a special order of the Senate moved with leave and adopted on November 24, and notwithstanding rule 97(4), this bill now stands referred to the Standing Senate Committee on Foreign Affairs.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

REPORT OF COMMITTEE

Hon. Michael Kirby, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, December 7, 1999

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-6, an Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, in obedience to the Order of Reference of Monday, December 6, 1999, has examined the said Bill and now reports the same with the following amendments:

Page 3, Clause 2 : Add the following after line 2:

““Personal health information”, with respect to an individual, whether living or deceased means:

- (a) information concerning the physical or mental health of the individual;
- (b) information concerning any health service provided to the individual;
- (c) information concerning the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (d) information that is collected in the course of providing health services to the individual; or
- (e) information that is collected incidentally to the provision of health services to the individual.”.

1. Page 23, Clause 30:

(a) Add the following after line 4:

“(1.1) This Part does not apply to any organization in respect of personal health information that it collects, uses or discloses”; and

(d) Add the following after line 7:

“(2.1) Subsection (1.1) ceases to have effect one year after the day on which this section comes into force.”.

Respectfully submitted,

MICHAEL KIRBY
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Kirby: Honourable senators, with leave of the Senate and notwithstanding 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to, and bill placed on the Orders of the Day for third reading later this day.

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, December 8, 1999, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate; and

That all matters on the Orders of the Day on the Notice Paper, which have not been reached, shall retain their position.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

CAN/AM BORDER TRADE ALLIANCE CONFERENCE—
REPORT OF CANADIAN DELEGATION TABLED

Hon. Jeremiah S. Grafstein: Honourable senators, I have the honour to present, in both official languages, the report of the Canadian Delegation to the fall conference of the CAN/AM Border Trade Alliance, held in Washington, D.C., from September 12 to 14, 1999.

RICHARD G. GREENE

APPOINTMENT AS HONORARY OFFICER OF THE SENATE—
FELICITATIONS ON RETIREMENT

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, with leave of the Senate, I am pleased to move, seconded by the Leader of the Opposition, the Honourable Senator Lynch-Staunton:

That the Senate desires to record their deep appreciation of the distinguished service rendered by Mr. Richard G. Greene as Deputy Clerk and Principle Clerk, Legislative Services of the Senate; and

That in acknowledgement of the dignity, dedication, and profound learning with which he has graced the office, he be designated an Honorary Officer of this House with an entrée to the Senate and a seat at the Table on occasions of ceremony.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I happily take this occasion to speak for a few minutes in support of this motion.

This is a bittersweet occasion. It is bitter because Richard Greene — I think of him as Senator Greene — will be leaving us as of the end of the year. Actually, I think of him as exactly who he is — an extraordinary Table officer in this house. It is sweet because he is so young. I look at him, and I regard him as younger than I am, and for me that is very young.

Even so, Richard has been in this place for a remarkable 44 years. I went down the hall to look at the photographs of leaders of the government of this place — unfortunately they do not take pictures of the leaders of the opposition — and the leader at the time Richard joined the Senate was one

William Ross Macdonald from Ontario. I am sure you are one of the very few people in this room, Richard, who even recognizes his name. I do now, and I am well acquainted with his remarkable achievements, but only because I read about them. Richard, you have seen eight prime ministers come and go since you started here in the time of Louis St. Laurent.

Honourable senators, Richard Greene is distinctive and distinct in this place and, I am sure, in most records of public service. He has made a unique contribution, starting out as a page and becoming the Deputy Clerk.

Richard, you have served us with extraordinary grace and scholarship, and we thank you for that. I am pleased to speak in support of this motion, and I look forward to seeing you on many ceremonial occasions. May you have a long and happy retirement. I extend best wishes from all of us to you and your family on this special day of recognition, and may you have a great year 2000 and beyond.

• (1440)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am very pleased to rise and enthusiastically second Senator Boudreau's motion, if for no other reason than one of selfishness, if not fear. I need not remind you that Richard Greene, more than any other staff, sees all, hears all, and at least so far, has said very little, if anything. This is particularly significant when you realize that since arriving here in 1956, he has seen 277 of the 827 senators who have been named since Confederation. One-third of them have passed under his scrutiny. He has attended to 14 speakers and counselled nine Governors General.

What a story Richard Greene could tell of his over 40 years here, and how reassuring to know that he is prevented from doing so as long as he is associated with the Senate, even in an honorary position. Honourable senators, I believe this is reason enough to support the motion without hesitation, and even in indecent haste, no matter how many leaves are required.

I wish to stress in particular Richard's impartiality, despite the fact that at least on this side his political leanings are somewhat suspect. Indeed, he dispenses convoluted procedural advice equally and without favour. The fact is, honourable senators, putting weak humour aside, this place will not be the same when we return next year because a little of the Senate is also leaving with Richard's departure. He has been too much a part of this place for it not to be otherwise. I can only hope that he will also take with him our respect, our gratitude and much affection, for, in the spirit of the Speaker's Ruling yesterday, no minion has better served the Senate.

Senator Boudreau: Honourable senators —

The Hon. the Speaker: I must advise the Senate that if the Honourable Senator Boudreau speaks now his speech will have the effect of closing debate on the motion.

Senator Boudreau: Honourable senators, I should like to associate myself with the remarks by my deputy leader, the distinguished Leader of the Opposition and, as well, with all of the remarks that will be offered privately to Richard. I congratulate him and his family and wish them all a very happy, successful, and prosperous retirement. We all look forward to seeing you appear here as a very special and honoured guest.

With that, my role would be to move adoption of the motion.

Hon. Senators: Hear, hear!

The Hon. the Speaker: It was moved by the Honourable Senator Boudreau, seconded by the Honourable Senator Lynch-Staunton:

That the Senate desires to record their deep appreciation of the distinguished service rendered by Mr. Richard G. Greene as Deputy Clerk and Principal Clerk, Legislative Services of the Senate; and

That in acknowledgement of the dignity, dedication and profound learning with which he has graced the office, he be designated an honorary officer of this house with an entree to the Senate and a seat at the Table on occasions of ceremony.

Is it your pleasure, honourable senators to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

PAGES EXCHANGE PROGRAM WITH THE HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I should like to introduce to you the page from the House of Commons who is on exchange with us this week.

[Translation]

Julien Morrisette, a native of Ottawa, is a student in the Faculty of Political Science at the University of Ottawa.

On behalf of all of honourable senators, I welcome you to the Senate. We hope that your time with us will be pleasant, but more important that it will be interesting and profitable.

[English]

QUESTION PERIOD

TRANSPORT

POSSIBLE TAKEOVER OF CANADIAN AIRLINES BY
AIR CANADA—SERVICE TO REGIONAL AIRPORTS

Hon. Ethel Cochrane: Honourable senators, my question is to the Leader of the Government. In yesterday's *Globe and Mail*, the Minister of Transport was quoted as saying:

We believe we've got to create an environment to encourage domestic competition to the new carrier..

There is no way we want to go back to the old regime of re-regulation...

That is the minister's reaction to the imminent takeover of Canadian Airlines by Air Canada. My question to the leader is this: Is the government aware that at most small airports in Canada there is no competition now? The issue is not choosing which airline to fly with; the issue is whether or not there will still be any airline serving the local airport.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for the question. Obviously it is a matter of concern, particularly in certain areas of Atlantic Canada. I believe the honourable senator brought to the Senate's attention the situation in Stephenville, where, at least temporarily, there is no flight service from that airport. People are required to travel roughly 100 kilometres to seek air transportation.

Stephenville is a good example, perhaps, of the current problem facing our air transportation sector because this airport has been problematic in the past. Before the recent events in the air transportation sector, it had been a matter of some concern to provide air service from that particular airport. The minister is aware of this situation, and certainly the strong representations from senators and members of the other place, particularly from Atlantic Canada and other small centres, will help to keep that issue firmly before him.

Senator Cochrane: Honourable senators, where I live is approximately 120 kilometres from Deer Lake. However, there are some other communities now without service and people will need to drive approximately 150 kilometres. I am thinking about people in communities such as Port aux Basques and Cape St. George on the mainland, and Port au Port Peninsula, who will need to travel much further.

My supplementary question is this, honourable senators: The Minister of Transport has been articulating a policy which is designed to serve Toronto, Montreal, Vancouver, Calgary and Halifax, but that policy will not serve the interests or meet the concerns of Canadians living in smaller communities. Does the government not realize that a policy of encouraging competition will not get airplanes flying out of Stephenville or Charlo or Chatham, New Brunswick, or any other airports that have been abandoned already by InterCanadian Airlines?

Senator Boudreau: Honourable senators, the statement by the minister, I would speculate, was not intended to be comprehensive in nature. As a matter of fact, I have mentioned a number of times in this place the basic principles attached to the government's policy, and one of them specifically deals with the provision of services to our smaller communities throughout the country. The minister has indicated on a number of occasions, both in the House of Commons and publicly elsewhere, that this necessity of ensuring service to small communities across Canada will form an integral part of government policy.

• (1450)

TREASURY BOARD

PREPARATION FOR YEAR 2000—
POSSIBILITY OF HEARING BY COMMITTEE OF THE WHOLE

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government, though it could be equally directed to the Deputy Leader of the Government. It arises out of a question asked of me a few moments ago by our whip.

Senator DeWare asked me where I would be shortly after New Year's. I said that I would be at home, but that I do have a new number and I gave it to her. I said, "Why do you want to know where I will be?" She said, "Oh, in case something goes wrong at midnight on that fateful day."

I have a growing apprehension that just possibly the government is not all that certain of how Canada stands with respect to potential Y2K problems. To that end, in order that our minds might be set to rest, I should like to ask the Leader of the Government in the Senate if he would ask the appropriate ministers, such as the Minister of Defence, together with one or two of their experts, to appear before us briefly in Committee of the Whole prior to the Senate rising for the Christmas break. This would allow senators the opportunity to ask questions about the wide range of matters that could be affected.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, Minister Robillard, the President of the Treasury Board, is the minister responsible for Y2K preparations. I am assured that the preparations have been thorough in all essential sectors and that the Government of Canada does not expect any problems with the transition to the new millennium.

Prudence is always a good element of any such program. Knowing where key people, such as the honourable senator, will be located at all relevant times may be of importance. As part of the overall planning, it simply demonstrates a level of prudence. However, I do not think it should set off any alarm bells.

Senator Forrestall: Honourable senators, I could ask the government whip whether or not he has found it necessary to seek such information. If he has, would he give some credence to that possibility?

My supplementary question is directed to the Deputy Leader of the Government in the Senate. Will he give some consideration to having the appropriate minister and someone from their staff spend 20 minutes or half an hour with us just to give us that reassurance?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I know from previous experience that it is not in order for me to answer a question unless the leader is absent. However, in not answering the question, let me take notice of what the honourable senator has said and attempt to deal with it.

HERITAGE

NATIONAL HOCKEY LEAGUE—POSSIBLE NEW LOTTERY TO
SUPPORT CANADIAN TEAMS—ANNOUNCEMENT BY MINISTER

Hon. David Tkachuk: Honourable senators, from Y2K I go to Sheila Copps, who is a Y2K problem of her own. We can always hope that she will fail to work after December 31.

Honourable senators, it was reported recently in *The Globe and Mail* that Sheila Copps had announced a new plan. Following in the great tradition of Liberal governments since 1993, she made her announcement outside Parliament. Her plan is that a lottery system will be used to help professional hockey teams in Canada. Since the announcement was not made in the other place, could the Leader of the Government in the Senate explain the new plan?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I must indicate to the honourable senator that I have not been present at any meeting where such a plan has been announced. Therefore, I am afraid I cannot help him with the matter.

Senator Tkachuk: That is an honest answer, honourable senators. It seems that was the honest answer of the minister in charge of this problem, Minister Manley, who did not have a clue about the announcement either.

Who in the government is in charge of finding a solution to the problem? Is it Sheila Copps, the Minister of Canadian Heritage, or is it John Manley, the Minister of Industry?

Senator Boudreau: Honourable senators, there is certainly a level of concern and a shared responsibility among all the members of the executive council. Certainly, Minister Manley would be the lead minister in this regard.

Senator Tkachuk: Honourable senators, it intrigues me how the government has been dealing lately with national problems. Minister Copps has laid out a plan. She discussed it with Premiers Harris and Klein at the Grey Cup game. Yet, Minister Manley has no clue about it. As a matter of fact, she announced the plan outside Parliament. It was reported in *The Globe and Mail* before parliamentarians had heard anything about it. The

responsible minister does know anything about the plan. This does not give me a great deal of confidence in anyone finding a solution to what the NHL teams in Canada have raised as a major problem for them, continuing to do business here.

If all the ministers and all the members of government are in charge of finding a solution to this plan, it might help us if the minister were to explain the process to us. How does one arrive at a solution to a problem such as this?

Senator Boudreau: Honourable senators, I am sure that this is a matter of concern to all members of the Privy Council. Ultimately, the decision will be a decision of government. It is a decision that will be very carefully weighed and all relevant considerations will be taken into account.

Perhaps the lesson to be learned in this incident is that one should not always believe everything one reads in *The Globe and Mail*.

INTERGOVERNMENTAL AFFAIRS

QUEBEC—POSSIBLE CONDITIONS OF REFERENDUM— TIMING OF ANNOUNCEMENT BY PRIME MINISTER

Hon. Lowell Murray: Honourable senators, by all accounts today was the day when the cabinet was to have made a decision concerning the Prime Minister's initiative to establish federal government parameters for any future referendum in Quebec. Has any decision been taken?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, any resolution to discussions which would have taken place, were they to have taken place, would be made public by the Prime Minister in due course. I am sure the honourable senator would be aware of that.

Senator Murray: Honourable senators, I naturally appreciate the reluctance of the Leader of the Government to upstage the Prime Minister on his own announcement. Can he, however, let us know when we may expect an announcement from the Prime Minister on this matter?

Senator Boudreau: With apologies to the honourable senator, I would be reluctant to guess the Prime Minister's timing on an issue so important and so central to him. At the risk of accidentally misleading senators, I would beg not to give a direct answer to this question and would prefer to answer using the common phrase, "in the fullness of time." One would hope in the relatively near future that the Prime Minister will come forward with his announcement.

• (1500)

Senator Murray: Honourable senators, I appreciate that. I am not trying to rush things. I ask the question simply because there is a possibility, perhaps even a likelihood, that Parliament, which obviously includes the Senate, will be involved.

What I am trying to get at is whether we should be ready, if not to deal with a matter, at least to take note of an initiative in Parliament before the Christmas recess.

Senator Boudreau: Honourable senators, if the Prime Minister's direction is to proceed by way of legislation, then, by necessity, the Senate will have a major role to play. As to whether that might interfere with our Christmas celebrations, I am fairly confident that we all will be celebrating Christmas with our families.

LABOUR

PLIGHT OF HOMELESS—STATUS OF GOVERNMENT STRATEGY

Hon. Brenda M. Robertson: Honourable senators, my question is for the Leader of the Government in the Senate and it concerns the government's strategy to fight homelessness. It is really a follow-up question to an answer the honourable leader gave in response to a question asked by Senator Cohen on November 23.

The government appointed the Minister of Labour to coordinate the government's response to the problem of homelessness late last winter. At that time, there seemed to be great urgency. Much concern was expressed and many people were suffering last winter. At that time, the minister said she would develop the government's strategy within a month.

Honourable senators, what concerns me, given the elapsed time, is the possibility that the strategy may have become bogged down inside government. Indeed, a report in yesterday's *Toronto Star*, which I am sure the leader has read, suggests just that. A government source is quoted as follows:

We just haven't delivered. Not everyone is happy about it. The minister has been working and there are things we can say we've done, but we haven't delivered.

I do not want to rely solely on this article. Perhaps the government leader could expand on his answer to Senator Cohen of a couple of weeks ago and inform the chamber at what stage the homelessness strategy is and on what basis he said that he expects there will be more to announce shortly. "Shortly" is always a very strange word here.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the minister responsible has done a remarkable job consulting across the country, travelling and meeting with groups directly involved. She has covered a tremendous amount of ground and is very aggressive about putting forward policy positions and programs for this particular group of individuals.

I can assure the honourable senator that this process has not been stalled. The minister is diligently and aggressively pursuing her recommendations.

As to the timing of any announcements, once again I must say that that will be left with the minister to decide. However, I share the senator's hope that it will not be delayed for too long.

Senator Robertson: Honourable senators, I thank the leader for that answer. What bothers me is that the government was premature in saying that a strategy would be in place long before now. I believe this increased expectation has undermined the government's good intentions somewhat and has created confusion for everyone who has an interest in tackling this very serious problem.

In the same *Toronto Star* article, the Minister of Finance was quoted as saying that the strategy needs an agreement between the three levels of government to work. Many honourable senators here, including the government leader and myself, have been involved in negotiating federal-provincial agreements. We all know how difficult that is and how long it can take, so who knows when we will get a homelessness strategy. Now that there must be an agreement between the provinces and the municipalities, we could be looking at two or three years. In the meantime many people are suffering.

Could the Leader of the Government in the Senate inform the chamber if negotiations with the provinces have started and what is the timetable?

Senator Boudreau: Honourable senators, other levels of government have a clear responsibility to help deal with this very significant challenge facing us across the country. It is clear that they do have a role to play. Any program the federal government brings forward would not be a substitute for the responsibilities that constitutionally fall on the provincial governments and their surrogates, the municipalities.

I will convey the honourable senator's questions to the minister and I will provide as much information and detail as I am able.

Senator Robertson: Honourable senators, part of the concern of many residents in Canada is that there was no mention of provincial or municipal involvement at the time of the announcement last winter. It seems that the federal government has not taken the lead as they said they would. This is troubling and I would like some definitive and clear answers so that I can respond in a sensible manner to the people who are in contact with my office on a continual basis.

Senator Boudreau: Honourable senators, I appreciate the honourable senator's impatience, if you will, with this question. I can only assure her that the minister is very involved and continues to move the agenda forward. To repeat what I have just undertaken to do, I will provide whatever additional information I can in an effort to relieve some of the concern expressed by the honourable senator.

FOREIGN AFFAIRS

REPORT OF CANADIAN COUNCIL FOR INTERNATIONAL CO-OPERATION—RECOMMENDATION TO ESTABLISH TASK FORCE—GOVERNMENT POLICY

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Today, the Canadian Council for International Co-operation released a report, "The Reality of Aid," which points out that Canada's contributions to official development assistance have reached a 30-year low and now stand in eleventh position among the 21 OECD donors, down from seventh position in 1996. This is a pretty poor performance for the number one country in the world.

Recognizing that the government has said that Canada intends to increase the aid budget, the question remains as to the quality of aid. Thus, the council has recommended the creation of a Canadian aid renewal task force to undertake a systematic review of CIDA's program priorities.

Will the government leader take this recommendation to the government and undertake to report back to the Senate whether such a task force will, in fact, be created and, if not, why not?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I recognize the report to which the honourable senator refers. It was released today, I believe, so I am sure the minister in question has not had an opportunity to review it in any detail as yet.

The Speech from the Throne clearly outlines a commitment to increased aid and international development assistance. It further makes a commitment that such assistance will be brought forward in innovative new ways to be more effective in assisting poor countries to achieve economic development results. I hope the sentiment expressed in the Speech from the Throne will be given effect as we move through the budget process.

• (1510)

To answer the honourable senator's question specifically, I will convey his inquiry to the minister in question. We should give the minister some time to absorb the substance of the report, but I will undertake to bring back a response to the honourable senator.

PLAN TO ESTABLISH COHERENT FOREIGN AID POLICY

Hon. Lois M. Wilson: Honourable senators, I was at the round table today sponsored by the CCIC with CIDA officials present. One of the questions raised, and which I should like to pose to the Leader of the Government, was this: What plan is being advanced by the government for more coherence in foreign aid policy to balance the needs of trade with human rights, foreign affairs and the environment? Where is the forum to resolve these contradictions so that there will be more coherence in our aid policy?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Speech from the Throne clearly signalled a renewed look at our foreign aid policy. That renewed look will be brought forward as we work our way through the budget cycle and address some of the important issues that have been raised in that regard.

The decisions regarding foreign aid obviously must respect the goals of reducing poverty, improving health and education and, indeed, the good governance in countries throughout the world. It remains an important objective of the Department of Foreign Affairs and International Trade.

Senator Wilson: Honourable senators, that is very comforting, but the answer we received this afternoon is that there is no plan.

Senator Boudreau: Honourable senators, I would hate to be that definitive. The plans as indicated in the Speech from the Throne will be developed over the weeks and months ahead. As we move through the budget cycle, I am hopeful that the honourable senator will see some detail that will give her some comfort.

COMPOSITION OF BUDGET FOR FOREIGN AID

Hon. A. Raynell Andreychuk: Honourable senators, the Prime Minister has indicated that the aid budget will be increased. The aid budget has been depleted to a 30-year low. It has also started to include more humanitarian aid and peacekeeping and the kind of intervention that is taking place in Kosovo. Is there any undertaking by the government to increase the aid budget for traditional programs of education and basic health, rather than for those other initiatives, which should justifiably be put under a different category?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, Canada's role through our armed services has expanded dramatically. There are probably more service members overseas today than there have been since the Korean War. Our peacekeeping role has been expanded dramatically. I have not had an opportunity to read the report, "The Reality of Aid 2000," so I do not know how such expenditures are categorized therein. My impression was that those expenditures would not have been lumped in, for purposes of budgeting, with the aid expenditures referenced by the Prime Minister and the initiatives described in the Speech from the Throne.

Senator Andreychuk: Perhaps I could enlighten the minister. Many of the costs for peacekeeping initiatives, the military interventions, and the peace-building and humanitarian activities were covered with funds from the aid budget. That category has increased, whereas other aid capacities have decreased. I would appreciate it if the minister would look into the question of supplying more aid directed to the root causes of unrest in developing countries.

PROVISION OF FOREIGN AID CONDITIONAL ON HUMAN RIGHTS RECORD—GOVERNMENT POLICY

Hon. A. Raynell Andreychuk: Honourable senators, if the speech by Maria Minna accurately reflects present government policy, then Canadian aid in the future will be conditional upon receiving countries adhering to peace-building policies. Is that the government's policy? Is that a change in the Liberal government's position? The Liberal Party in the past has spoken against tying aid to human rights.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, because I am not familiar with the particular speech to which Senator Andreychuk refers, I will raise the matter with the minister responsible and bring back an answer for the honourable senator as soon as possible.

BUSINESS OF THE SENATE

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, had there been time in Question Period, I would have asked a question of the Chair of the Standing Senate Committee on Banking, Trade and Commerce. That senator is not in the chamber; however, I do see in the chamber the deputy chairman and several members of the Banking Committee.

Earlier today, Senator Hervieux-Payette presented a report from the Banking Committee that was read and taken to the Table. I went to the Table to examine the report, and it had not been certified as a report from the committee by the Chair of the Standing Senate Committee on Banking, Trade and Commerce. I was advised by the Table Officers that they had noticed that as well and had sent it back to Senator Hervieux-Payette for her signature.

Can the Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce describe for us the nature of the meeting in which it was decided — if, indeed, it was decided — that the Banking Committee should study, clause by clause, Bill S-3? Is there a record of that meeting? Was a motion put, and is there a record of that motion, instructing the chair or the deputy chair to present that report in the Senate?

Hon. David Tkachuk: Honourable senators, the answer is yes.

Senator Kinsella: Can the deputy chair explain whether another senator was designated to present the report to the house, rather than having it presented in this house by the chair or the deputy chair, which is the custom and usage of this place?

Senator Tkachuk: Honourable senators, I am not Senator Kolber. I do not know what was in his head. Originally, when we agreed to report the bill, Senator Kolber said he would bring it to the Senate on Wednesday, December 8. At the meeting on Thursday last, he said he may bring the report in earlier.

A message was received in my office yesterday asking me to report the bill, but I was in transit from Saskatoon to Ottawa, and, as you may know, that takes all day. Therefore, I gave no response to that request.

• (1520)

The first I heard about it being presented today was when Honourable Senator Hervieux-Payette rose in this chamber.

Senator Kinsella: Honourable senators, in a publication of the Senate dated November 1999 entitled *Fundamentals of Senate Committees*, on page 14 there is a description of how reports are to proceed from a committee to the chamber. It indicates that, when a committee chair submits a report, the committee is stating that it has concluded the work assigned to it by the Senate through the order of reference. In the instance of a bill, that includes, in committee, clause-by-clause analysis of that bill. The usage and the practice is that, in committee, the chair asks the question: "When shall this bill be reported?" A member of the committee then moves a motion in that respect. Authorization is thereby given, if that motion is carried, to the chair to present it. This publication also says that the report is either put forward by the chair or another designated member of the committee.

I should like to determine, in the absence of the chair and the deputy chair, the process that was followed by which another member of the committee was so designated. The process needs some quality and control in order for us to know whether a committee report is indeed the report of the committee decided by the majority members of the committee. That is one of my problems with respect to the report that was presented in this place earlier in the proceedings.

My second problem is that I am not certain — because I do not have the blues here yet — as to what His Honour said upon presentation of that report. I believe I heard something about leave being granted for something, but I do not know whether that was in reference to the proceeding that was occurring here today or whether it was in reference to the decision that had been taken some time ago when the bill was referred to the Banking Committee. There was some confusion at that time as to whether it was sent to one committee or two committees.

We need clarification on those two matters.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I should like to speak to this point of order.

I have listened to Senator Kinsella. I am not sure whether he is concerned about three matters or one matter. He first raised the matter of the necessary signature on the bill and I gather has found that when he examined the bill there was no signature. I gather that is something that has been remedied since that was discovered.

The second matter is whether it was dealt with properly by the committee. I gather from Senator Tkachuk's question that, in his opinion, there was a motion to report the bill.

The third matter is whether there was a proper designation of a member of the committee in terms of whether it should be presented by the chair, who is not here and could not report it, the deputy chair, or another member of the committee, in fact, the sponsor of the bill, Senator Hervieux-Payette. I am not sure if that would go to the propriety of whether the matter is properly before the Senate, but I would submit that it does not; that a member of the committee might present in the absence of the chair when the deputy chair is present, although the normal expectation would be that the deputy chair would act in the absence of the chair.

As to the wording of the Speaker's statement following the tabling of the report, I will repeat it. I was given a copy.

Senator Lynch-Staunton: You were the only one, then.

Senator Hays: It was:

Pursuant to a special order of the Senate moved with leave and adopted on November 24, and notwithstanding rule 97(4), this bill now stands referred to the Standing Senate Committee on Foreign Affairs.

I received that while coming into the chamber. I am sorry that a copy was not provided to my counterpart; I will ensure that he gets one.

My understanding is that that was to ensure that this legislation was dealt with in an orderly way according to the desire of the Senate. I was trying to accommodate the bill being looked at not only by the Banking Committee but also by the Foreign Affairs Committee because of matters that senators raised in connection with the specifics of the bill. I will not get into that, however.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, at question is the principle of allowing a member of the committee, without authorization of the committee, if such is the case, to table a report, even if it is approved by the committee.

The committee decided to report the bill. No one, as far as I know, has seen a draft of the report — perhaps not even the chairman or the deputy chairman. Out of propriety and respect for their position, they should have at least seen or authorized the release of the report here. I gather that that was not done and that Senator Hervieux-Payette was not authorized formally by the committee to present the report. I request confirmation of that.

Senator Tkachuk: No, that was not done.

Senator Lynch-Staunton: Second, not to bog down in procedure, and, I hope, not setting a precedent in sending a bill to more than one committee, I do not see how the Speaker is authorized to send, during Routine Proceedings, a report that has not even been debated in this place from one committee to the next. I do not see the link that the Speaker can make. This is more a point of information, but I had assumed, during the two days of debate on this issue, that the report would be presented

here and that the Senate on its own would decide what to do with it. It is a report to the Senate; it is not a Speaker's report. I do not know what this term "special order" means. When you reread the debate, it simply says, as Senator Hays explained on the second day when he clarified some remarks that were not properly transcribed into the official Hansard, first in one place and then in the next place.

The assumption was that, to get from one place to the other, it would need reconfirmation in this place. The Speaker acted on our behalf, without explanation and without warning. I always thought it was the Senate that, in the long run, decided how to deal with bills and reports and where they should go. In this case, though, although we do want it to go to the Foreign Affairs Committee, it was done in a way in which the Senate had no say. The Senate never had an opportunity to look at the report, to see what was in it.

Senator Hays: I wish to might make a further comment on the matter of order, specifically in the context of Senator Lynch-Staunton's expressed concern about whether the bill would come back here to be referred to the Foreign Affairs Committee or whether it would go to the Foreign Affairs Committee after the Banking Committee had dealt with it.

I do not have the precise language in front of me, but I believe it was the interpretation that the Speaker has put on it, that is, that it would go to the Banking Committee first and, following disposition of it or dealing with it by the Banking Committee, that it would go to the Foreign Affairs Committee. We were silent on anything more than that it is a reasonable interpretation that it would go directly to the Foreign Affairs Committee after the Banking Committee's deliberations were completed. It is also possible to interpret it the way Senator Lynch-Staunton interpreted it. In any event, I gather that the Foreign Affairs Committee has not commenced its deliberations.

Would the Honourable Senator Lynch-Staunton care to add a few words in terms of his desire to have the matter heard here in the Senate as opposed to the Foreign Affairs Committee?

• (1530)

Senator Tkachuk: Honourable senators, may I ask a question on this matter as well, as I believe there is a point of order that refers to me?

The Hon. the Speaker: Honourable senators, I presume we are on a point of order, and anyone can speak to a point of order.

Senator Tkachuk: I have not had a chance to ask Senator Kroft, who is a member of the steering committee with me on the Banking Committee, whether he was aware that Senator Hervieux-Payette would present the report in the chamber today.

The Hon. the Speaker: I am sorry, but a question to Senator Kroft is not in order at this time. However, if he wishes to answer and the Senate is prepared to hear him, that is up to him.

Senator Tkachuk: Perhaps I could explain why I wish to speak at this time. Senator Kinsella raised an interesting point. I have only been here six years, but I was chairman of the Finance Committee for some time and Senator Kirby was chairman of the Banking Committee. If I could not present a report, as chairman, I would ask Senator De Bané to present it. If we both could not be here, then we would make another arrangement together. The same was true of Senator Kirby. He would either present the report or ask me to bring it to the Senate chamber. If it was impossible for both he and I to do so, we would agree who should do it — that is, if it was necessary to be done.

Senator Kirby and I had no steering committee. Together, we were the steering committee, and that arrangement worked quite well. I wonder if Senator Kroft was made aware of this. That would help us to understand how this took place without me knowing anything about it or signing off on it.

The Hon. the Speaker: Honourable senators, I was out of the Chair, but I understand that there are two points of order before us at this time.

Senator Lynch-Staunton: They are wrapped into one. First, Your Honour decided during Routine Proceedings — when no point of order or debate is allowed unless leave is granted — to send to another committee a report that had just been presented. The rules provide at least one day for the report to be presented and then we proceed to third reading. In this case, obviously, we could not move to third reading, but we had no occasion even to see the report. It was tabled and then taken off the Table. Now it is gone. I had hoped that, if Your Honour were to have taken a decision, you would have done so during Orders of the Day when we could, perhaps, have had an explanation for this unusual decision. This situation is not of our making, by the way.

Second, given that Senator Hervieux-Payette was not authorized formally by the committee to present the report, was the report properly presented?

Senator Kinsella: Honourable senators, there are several elements to the point of order.

With respect to the Banking Committee's analysis of the bill, its clause-by-clause study and its report back to the Senate, I went to the Table to view the report. A report was there but it was not signed by the honourable senator who had presented it, which raised a procedural question in my mind. The report was not presented by the chair nor the deputy chair. Unless there is a record in the minutes of the committee — and I do not have that in front of me — delegating another senator to present the report, I am not sure the report is properly before the Senate.

The other issue, which by common agreement is unusual, is that by an order of the house, this report was to be referred to two committees rather than one. The desire to have it examined by the Banking Committee related to a series of concerns raised at second reading debate, which were matters of taxation to be properly addressed by the Banking Committee.

Honourable senators, if the report is properly before us, it must be debated and we must decide whether the part of the bill that dealt with issues to be canvassed by the Banking Committee have been accepted. Then the bill will go off to the Foreign Affairs Committee, pursuant to the order that was made earlier. We should have consideration of the report from the Banking Committee before we send the bill off to the Foreign Affairs Committee because there can be linkage between the taxation concerns that the Banking Committee addressed and the foreign affairs issues — in particular, human rights issues which joined the debate at second reading. All these issues should be canvassed.

Honourable senators, we may be jumping the gun a bit. We only had a report presented. We have not taken that report into consideration. There is, in my view, a substantial relationship between the analysis of the report and the analysis of the bill, which would then be committed to the Foreign Affairs Committee. They are the issues that motivated my questioning the order of the matter.

Senator Hays: Honourable senators, I have commented on the orderliness of what was done by the Banking Committee and Senator Lynch-Staunton's matter as well. However, I find Senator Kinsella's point most interesting. If I heard him correctly, he is saying that we should not have referred the bill to two committees; rather, we should have referred it only to the Banking Committee and then had the matter return here so that we could deal with that report. The Senate would then decide whether to do anything more with the bill.

On the day in question — and I am not able to put my hands on the *Debates of the Senate* of that day — there was a desire for members of two committees to direct their collective minds to this bill, particularly because of its nature and one of the elements in it, namely, an issue of human rights. We attempted to have the bill go to two committees sequentially. The Banking Committee was to deal with the bill first. The language we used at the time anticipated that study. Following that study, the bill was to be dealt with by the Foreign Affairs Committee.

The issue is this: What does the Senate do or how does the Senate best deal with the product of this committee work? My interpretation of the statements on this matter and all the things we have done to date, subject to not signing the report and whether it is proper for a member of the committee other than the chair or deputy chair to present a report without a specific motion — and I submit that is not an impediment — is that the thrust of what we are attempting to do is served by having the bill go to the two committees and by having the reports of the two committees return here to be dealt with at the same time. If that is done, all of Senator Kinsella's concerns can be addressed. In retrospect, perhaps the honourable senator's suggestion was the correct way to go — that is, we should not have referred the bill sequentially to one committee after the other. However, having done that, for this process to work, what is happening is exactly what needs to occur to achieve the desired result — namely, to have the work of the two committees before us so it can be

considered. To do that we need both committee reports before us at the same time.

The Hon. the Speaker: Does any other honourable senator wish to speak to the point of order? If not, I will take the matter under advisement. I was not here last week when this matter first arose and did not hear all the points.

• (1540)

However, I would remind honourable senators that when a bill is referred to a committee, the committee must report. If it is reported without amendment, it is automatic, then, that I simply put the following question: When shall this bill be read a third time? There is no motion and no amendment at that point. There is no discussion. That is the situation we are in now. However, I will study the matter and report back as quickly as I can.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we are now on government business, and I should like, on behalf of the government side, to call as the first item for deliberation the report of the Standing Senate Committee on Social Affairs, Science and Technology dealing with Bill C-6.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Social Affairs, Science and Technology (Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act) presented earlier today.

Hon. Michael Kirby moved the adoption of the report.

He said: Honourable senators, as the sponsor of Bill C-6 and as Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, which originally spent considerable time studying the subject matter of Bill C-6 and then, more recently, studied the bill itself following completion of second reading in this chamber, I rise to speak to the report of the committee on Bill C-6. My comments today will focus on the bill in general, but also and more particularly on the amendments to the bill proposed in the report of the committee presented in this chamber earlier this afternoon.

In the global economy, information has become an important and valuable commodity. Where at one time governments were seen as the major collectors and holders of personal information, now the private sector has an increasingly important role in this field. The development of networks such as the Internet has made the disclosure and distribution of personal information a matter of concern to Canadians, many of whom feel that their privacy is being reduced as these networks expand.

In Canada, the federal and most provincial governments have laws that deal with the private sector's collection, use and disclosure of personal information, but only Quebec has enacted privacy legislation governing the private sector. Some organizations have adopted voluntary codes with respect to the collection and use of personal information, but the use of such codes is not widespread and is not uniform on a coast-to-coast basis.

In 1996, the federal government committed to developing legislation to protect personal information in the private sector. The government's goal in 1996 was to legislate by the start of the year 2000. Bill C-6 stems from that commitment.

Legislation that seeks to protect the privacy of personal information must, of necessity, attempt to balance an individual's right to know about or consent to the collection of the information, or its use or disclosure, for certain purposes. Bill C-6 attempts to strike an appropriate balance between the conflicting goals, the need for consent and the need for an individual to understand that the information is being collected and how it will be used, and the need to have an efficient and functioning economy.

I wish to assure honourable senators that aside from the one amendment proposed in the committee's report, the committee's examination of Bill C-6 revealed that it is indeed a very significant legislative accomplishment. The government has authored what can truly be called a masterpiece of electronic commerce. It strikes the very significant and delicately drawn balance between business and consumer interests.

Frankly, honourable senators, I have never seen a bill where both business and consumer groups were equally anxious to see a piece of legislation passed. Every single business, consumer, technology, insurance, bank and even credit-reporting witness who testified before the committee urged the speedy passage of the bill. All of these stakeholders agree that it represents a reasonable and fair set of information practices. Indeed, witnesses from across the entire spectrum of the Canadian economy, with the exception of the health care sector, used phrases in describing this bill and urging its speedy passage such as, "delicate balance," "result of years and months of negotiation," "a very good consensus," and so on.

The range of witnesses taking that view not only covered the business sectors, it covered, for example, civil rights advocates and privacy experts. In short, the Minister of Industry has done a remarkable job in achieving a consensus on a very complicated situation and has achieved that consensus in a relatively short period of 18 months across a wide sector of the Canadian economy.

Therefore, honourable senators, if in fact this bill is as good as I have just described it, why has the committee made an amendment? It is to that question that I believe I should devote most of my remarks. That is because despite the massive support from business and consumer interests, one very important sector is unanimously opposed to the passage of this bill at this time. In short, one sector, the health care sector, is equally unanimous in its opposition to the bill's passage.

It is clear that the health care community as a whole was not part of the admirable consensus that I described a minute ago. Indeed, even within the health care community itself, there is absolutely no consensus as to what the right solution should be, in the sense that the health care community did not come before us as a cohesive group arguing for a specific set of amendments. They came before us arguing for a variety of amendments. Let me just give you some illustrative examples.

Some witnesses recommended that health care information should be entirely excluded from the bill. Others, such as the Canadian Medical Association and the Canadian Dental Association, felt that the bill did not provide sufficient protection to health care information about an individual. Others were concerned about the consent provisions and whether they were adequate in the sense that they did not specifically refer to informed and meaningful consent.

All members of the health care sector who testified before the committee were uncertain as to the scope and application of this bill. All were concerned that this particular bill, as applied to the health care sector, would create what they called a two-tiered system of privacy protection — a two-tiered system in the sense that because of the way the bill is structured, one set of rules would initially affect a public sector health care institution such as a hospital, for example, or a lab operating in that hospital. Private sector institutions, such as the typical lab where many of us go to get tests or to give blood which is analyzed, et cetera, would be subject to a different set of rules. All of the representatives of the health care sector who testified before the committee raised considerable concern, although from different aspects, about the nature of this two-tiered system for the regulation of privacy that would result.

The concerns I have outlined, honourable senators, came from a wide cross-section. They came from doctors, dentists, pharmacists, nurses, hospitals, medical labs, medical research advocates, provincial departments of health, health care accreditation officials, and on and on.

Frankly, honourable senators, not a single health care group that came before the committee or sent correspondence to the committee in the form of a written submission supported the passage of this bill in its current form. The committee was also disturbed by the testimony of many health sector witnesses who allege that they did not play a meaningful role in consultations leading up to the tabling of the bill. Indeed, some witnesses told this committee about going to government officials as recently as eight or nine months ago and being told by those officials that they should not worry about this bill because it was an e-commerce bill and not one directed at the health care sector.

• (1550)

Therefore, honourable senators, the consensus that was so admirable in the rest of the economy and that was developed by the minister in a very short period of time, some 18 months, did not apply to the health care sector because the bill was designed to be an e-commerce bill. As a result, the health care system was not instantly included as one of the sectors that ought to play an integral part in the negotiations.

The second unique feature about the health care sector is that the private sector and the public sector are far more intertwined than any other sector of the Canadian economy. While many elements in the health care sector are paid for out of public funds, the people and organizations that perform the actual services may be part of the private sector, the public sector, or the not-for-profit sector. There is a much greater degree of intertwining between the public and private sectors in health care than in any other area of the Canadian economy.

Thus, honourable senators, the health care sector is very reluctant to proceed with the bill as it is. Interestingly, however, the recognition and concern surrounding the lack of clarity as to how this bill would apply to the health care sector came not only from health care advocates but from other people as well. Valerie Steeves, a noted privacy expert, testified that, in her view, this bill was really an e-commerce bill — she referred to it as e-commerce legislation and not privacy legislation per se — a view that was echoed by other expert witnesses. Indeed, the Minister of Industry implicitly supported this rationale when, in testimony before the Social Affairs Committee last Thursday with respect to the application of Bill C-6 to health information, he said that, in the first three years after the bill came into effect, its impact on the health care sector would be very limited. Indeed, he argued that the impact would be sufficiently limited, such that it did not justify delaying the effects of this legislation for the sake of clarifying its impact on the health care sector.

Honourable senators, the committee members understood the minister's arguments, understood the facts on which it was based, yet came to a completely different conclusion based on exactly the same facts. The committee remained concerned that this

e-commerce legislation could have unclear or unintended side-effects; more important, the committee was more concerned as to what those side effects are likely to be. Indeed, what the impact is likely to be on the health care sector is not clear at all.

If this bill will only affect, as the minister argued, a very small portion of the health care sector in the first three years after it is proclaimed, then clearly there is a window of opportunity to clarify the effects of this bill on the particularly sensitive and intimate personal health information without jeopardizing the impact of the bill on the remaining and vast commercial sector. Since, with this amendment, the bill will impact on the health care area in the public sector only three years after the bill comes into effect, we are providing an opportunity for the government and the affected parties to develop rules and regulations that will assure Canadians that their health information will be dealt with appropriately by all health care stakeholders.

Honourable senators, faced with both that window of opportunity and the unanimity of the support of all the other sectors of the Canadian economy for the bill proceeding quickly, the committee then considered whether there was a way to meet the objectives of those who want the bill passed quickly while simultaneously addressing the concerns of the health care sector.

The committee unanimously rejected the notion of a complete exemption from privacy legislation of the health care sector, a proposal put forward by some witnesses. The committee did, however, believe that a short period of time was desirable to try to see if an effective consensus could be built as to how this bill should be changed in order to make it impact fairly and equitably on the health care sector. The question became: How long should those negotiations be allowed to go on?

Last Thursday, we heard from a series of health care witnesses. They had obviously spent some time getting together before they testified, because every single one of them proposed exactly the same amendment, which was a five-year delay before the bill would come into effect for the health care sector.

Given the critical importance of private health information and the need to have health information covered by a privacy act, the committee's view was that five years was far too long. We opted instead for a one-year delay after proclamation, or two years from the time the bill receives Royal Assent. The minister has already said that the bill will be proclaimed one year after it receives Royal Assent, so our proposal can be looked at as either two years after Royal Assent or one year after proclamation. Our view is that two years should be sufficient for interested parties in the health care sector and government officials in the departments of industry and health to reach a consensus as to how this bill should be changed in order to have it impact effectively on the health care sector, and in a way that removes much of the uncertainty now surrounding it.

We also believe, honourable senators, that there is a significant negotiating advantage to the structure of our amendment, in the following sense. Our amendment proposes that, in the event that the two years go by after Royal Assent, one year after proclamation, and no consensus is reached and no amendments are introduced, the current bill will go into effect on the health care sector. Therefore, honourable senators, our view was that this was more than a modest incentive for people in the health care sector to try to reach a consensus to avoid all the problems they say they are concerned about. Having a deadline that would put the bill into effect unless a better consensus is achieved in the meantime would work very effectively.

I should say, honourable senators, that the committee did a yeoman's job in a very short period of time. We had many hours of hearings. We heard from 25 witnesses, which is roughly half the number people that originally asked to be heard. In the latter days of the hearings, additional witnesses kept coming up and asking to be heard. It thus became very clear to the committee that if we were going to find the correct solution to the health care sector problem, by keeping the bill before us until we had negotiated what the solution would be, it would take a very long time. We would have had to hear all the remaining witness. We would then have had to try to do some consensus building. In the meantime, had we taken that approach, the bill would not be law and would not apply to all the other sectors of the Canadian economy that want the bill applied.

Therefore, our view was that the logical thing to do is not to delay its application to all the remaining sectors of the economy that like the bill and want it passed, but only to delay its application to one sector, and in that case only for one additional year after proclamation.

That, honourable senators, is essentially the background to the report. If you want a more detailed analysis of the evidence the committee heard, which I think strongly supports the committee's conclusion, I refer you to the second report of the committee, which was tabled in this chamber yesterday. I would urge honourable senators to read that.

Again, our view is that this one-year delay after proclamation, two years after Royal Assent, will lead to very focused negotiations between the departments of health and industry and the health care sector.

Finally, honourable senators, there is one other issue that I should like to comment on, and that deals with the Privacy Act. As some of you know, there is a federal Privacy Act. The Privacy Commissioner made an interesting observation to us in his presentation before the committee. He pointed out that there are some significant differences between Bill C-6 and the Privacy Act. For example, the present Privacy Act allows recourse to the Federal Court only in situations where access to records has been denied. Complaints about the collection, use or disclosure of information by a government institution cannot be referred to the Federal Court. Yet, under Bill C-6, complaints with respect to the

collection, use or disclosure of information by the private sector can be appealed to the Federal Court.

• (1600)

Surely, honourable senators, as people in government, we must require that the same standard of privacy protection be applied to government institutions as is applied to private institutions. The conclusion that the committee drew from that was that, if Bill C-6 becomes law, there is a need for the Privacy Act to be updated so that government institutions are subject to at least the same standard of privacy protection as private institutions.

Related to that issue also, honourable senators, is that because the bill calls for a public education program by the Privacy Commissioner, and because Bill C-6 imposes significant new responsibilities and substantially enlarges the mandate of the Privacy Commissioner, it is obviously, again, an inherent part of the committee's report that additional resources will be required by the Privacy Commissioner if he is to carry out the expanded mandate called for in this legislation.

In closing, honourable senators, the committee tried to reach a balance that would ensure that the application of this bill to the vast majority of the Canadian economy — that is, the largest number of sectors of it — would proceed as expeditiously as possible and that, for a very short period, namely, one year after proclamation of the bill, it would not apply to the health care sector, in the hope that, in the ensuing 24 months, we can reach a negotiated solution to this bill.

That, honourable senators, is the background behind the bill. The amendment was passed unanimously by the committee. There was no dissension with this proposed amendment from senators on either side of the chamber. Therefore, honourable senators, I would urge your adoption of the committee's report.

Hon. Donald H. Oliver: Would the honourable senator accept a question?

Senator Kirby: Yes.

Senator Oliver: The honourable senator said throughout his remarks that there was only one sector for which there was no consensus, and that was the health care sector. He also said that part of the answer is that it was designed as an e-commerce bill and not a health care bill.

What went wrong and what can this Senate learn from this process? What instructions does the honourable senator have to ensure that this does not happen again? Here, you are amending a bill and sending it back to the other chamber. What went wrong with this process?

Senator Kirby: I can only speculate on that. Senator Oliver's question is a good one. He will appreciate that our focus was on the content of the bill and people's reaction to it, given the shortness of time and our desire to deal with the bill quickly. What I am about to say now is drawn from bits and pieces of evidence as opposed to a detailed conclusion.

First, the bill started out correctly as an e-commerce and an e-commerce privacy bill. Instinctively, when one thinks of e-commerce one does not think of the health care sector in Canada because it is publicly funded. That is what we normally think about it. If you were to rhyme off all the sectors that are involved with e-commerce, most of us, even if we thought about the health care sector, would dismiss that sector. Therefore, it is understandable that it was not at the forefront of the initial negotiations.

The second thing that makes it different is that the bill applies to private-sector commercial activity. Again, when we think of commercial activities, we are not inclined to think instinctively of the health care sector. However, when we are forced to sit down and think about it we realize that there are labs and other things that are business related. Nevertheless, when the question of commercial activity is first raised, one does not immediately think of the large number of health care companies in the health care field.

Finally, there is a factor in the health care field that does not exist anywhere else; that is, large numbers of public and private sector institutions are providing identical services. Labs is the obvious one. There are also occupational therapy services and some diagnostic services. We do not think of them as being different because they are all paid by the same payor.

Therefore, I think there was an honest and early oversight. Perhaps not a bad reflection of that is that, when this bill was before the Industry Committee in the House of Commons — and to indicate the level of interest in the bill I wish to inform you that they had 18 days of hearings on it — a very short amount of time was spent on the health care field because witnesses did not ask to appear before the committee. There was far more time spent on health care before the Senate committee than there was before the House committee, which is not to criticize the House committee. No one in the health care sector had come to the realization that this bill had significant impact for them.

In part, as one moves into new fields of commerce, such as e-commerce and so on, the traditional barriers between various sectors of the economy are collapsing. In the future, when looking at bills affecting these new kinds of communication systems, which is effectively what e-commerce is, we must be careful to ensure that we are completely comprehensive and that we get everyone inside the tent. I do not think anyone should be blamed; there is no scapegoat here. An honest series of things happened over time here, of which the best evidence was that from the CEO and President of the Canadian Health Care Association, Sharon Sholzberg-Gray, who testified that she went to the Department of Health as recently as last April or May and was told, "Do not worry. The bill does not apply to you."

Honourable senators, what occurred here was a series of inadvertent things. This is a terrific bill, but it seems to the

committee that it makes sense to deal with the one problem. Alternatively, if you pass the bill unamended you are imposing the bill on a significant sector of the Canadian society against the wishes of every organization in the society. Our view is that that is probably not a great way to do public policy.

Senator Oliver: That leads to my second question. A number of the medical witnesses who did appear said that one possible solution for them would be if their code, as drafted, could somehow be amended or attached. Could the honourable senator explain why the committee did not accept those representations that came from a number of the medical health care witnesses?

Senator Kirby: Yes. That is a good question. The best example was the Canadian Medical Association, who suggested that we should add their code to the bill. The problem with that option is that you cannot do it quickly. Why would you pick the Canadian Medical Association's code and not the dental association's code or the pharmacists's code? They all have different privacy codes. The minute you ask that question, you get yourself into the detailed set of negotiations and consensus building that I said was required. The committee came to the conclusion that, while one could do that, it would clearly take a matter of several months. Our preference was to get the bill passed with respect to those sectors of the economy that are on side and to use the intervening 24 months to build a consensus. It is a fact that several of the professional and institutional organizations indicated that they already had privacy codes that made those of us on the committee optimistic to the fact that it should be possible, within the 24 months, to develop out of these various privacy codes a consensus set of codes that would apply to the health care sector. Our view was that it was better to do that than to grab one of the codes belonging to one of the groups, adopt it, and apply it to everyone.

• (1610)

Hon. Lowell Murray: Honourable senators, I begin where Senators Oliver and Kirby left off.

First, the people from the health care sector generally represented to us that they had not been involved in the development of the Canadian Standards Association code on which this bill is based. Second, as Senator Kirby mentioned, some of them think they were led to believe by someone in the government that this bill would not apply to the health care sector. Indeed, it does not apply, apparently, to large parts of the health care sector, those being the "non-commercial" parts, including the professional relationships between patient and doctor and patient and hospital, and so on. Nevertheless, when you try to disentangle commercial from non-commercial activity in the health care sector, it becomes very difficult to decide where and how the bill will operate. Those two factors have been quite important in respect of the health care sector.

With regard to appending the professional code of the doctors and dentists, or whomever, to the bill, I must confess that I was greatly tempted. It was clear on reading them that those codes represent a rather higher standard than the consensus-based code of the Canada Standards Association. However, I believe that, even if we had decided to do so, we would be venturing into quite uncertain constitutional waters. We would be purporting to legislate and to regulate in respect of the professions, which I think in most cases are the preserve of the provincial legislatures.

Honourable senators, there would be no point in my trying to add anything to what we have heard from the chairman of the committee by way of explanation, background or justification for the amendment that is before us at the present time. His speech in that respect was full and accurate, and I only say that I agree with all of it. I hope it will commend itself to the Senate and ultimately to the government and to the House of Commons.

I take this occasion, however, to thank the chairman of the committee for having led us safely and successfully, so far, through a very close study of a very important bill over a period of 20 hours. I thank him for having led us to a solution, which, while it may not have been the preferred solution of everyone who appeared before us or, indeed, of everyone on the committee, is nevertheless an honourable and practical compromise, which, as I say, should commend itself to the Senate and to the government. This has not been an easy task for him, and all of us on the committee appreciate his forbearance and leadership.

As I said, I will not add anything to the explanation and the background that he has given us with regard to the health care sector. I do, however, wish to flag one other matter in the bill. This is not a matter upon which the committee has pronounced, but it is a very serious concern of mine. I flag it only to ask you to turn it over in your minds overnight because I intend to return to it when we come to third reading and quite probably to propose an amendment.

There is a provision in this bill, honourable senators, to the effect that highly personal information collected on individuals by business enterprises in the course of their business may be disclosed 20 years after the individual in respect of whom it has been collected has died. I believe this provision is indefensible and, if I can, I intend to move that that provision be struck from the bill when the time comes at third reading. I have asked various witnesses before the committee — from the minister to the Commissioner of Privacy to various privacy advocates — to offer a principled justification for this provision, and none of them has been able to do so. The only explanation that any of them has offered is that there is a parallel provision in the Privacy Act, a provision that covers information collected by the federal government and its agencies. Well, there may be some valid public policy reason for such a provision with respect to

information collected by the government — I do not know about that and I would like to revisit it some time — but I cannot think of a single principled reason why your credit card information, your mortgage information, your banking information, your pharmaceutical record — information collected by commercial organizations for commercial purposes — should ever be disclosed.

Obviously, the possibility of investigation of a crime and national security and all those things are already covered in the bill. We have been told, “Well, they cannot simply be disclosed. There must be some reason for it. Perhaps the Commissioner of Privacy might be involved at some point.” All this is very subjective, especially 20 years after the person has died.

One lawyer before us, Mr. Lawson, to whom I referred yesterday, and who is, like most of the people who appeared before us, a strong supporter of the bill, said, “Well, in my view, the right to privacy extends only to living persons.” I absolutely reject that idea, and I think we should reject it.

I do not want to anticipate the speech that I will probably make tomorrow afternoon, but I do want to give you a foretaste of it. I want you to know that I will put the clause before you and invite colleagues to offer me a principled justification, if they can. If they cannot, I would invite you to join me in amending the bill at third reading to delete that provision.

Honourable senators, as I indicated at second reading, as a general comment, this is a bill that enjoys and deserves to enjoy just about universal support from Parliament, as well as to the extent that there is any awareness of it out there in the country. It will, after all, extend the protection of the privacy law to the voluminous personal information that is collected about each one of us by commercial enterprises in the course of their business. With the exception of the provision to which I alluded a few minutes ago, those protections, according to all the evidence, are solid and effective.

As Senator Kirby has told us, this bill is the result of an extraordinary consensus involving the private business sector, the federal government, and various privacy advocacy and civil liberties groups. The government can take very considerable pride in having forged that consensus.

For all of those who believe, as I think most of us do, that privacy is an integral part of human dignity and autonomy and that it is a human right, this is a major step forward. I do believe that, when we pass the bill, we will have added significantly to the legal protections and framework for human rights in this country.

• (1620)

All Canadians may not be aware of what we are debating and doing today, but I think this bill as amended will go down in history as one of the principal achievements of this or any other recent Parliament.

Hon. Sharon Carstairs: Honourable senators, I thank both Senator Murray and Senator Kirby for their excellent work on this piece of legislation. Senator Murray is not normally a member of the committee but, as he indicated in his earlier presentation, he has an abiding interest in this particular piece of legislation. Though it is not usually within the purview of the *Rules of the Senate of Canada*, we actually had four members on our steering committee. Senator LeBreton, Senator Kirby, and I were joined in our discussions by Senator Murray, because we understood his deep concern and interest in the legislation.

Like Senator Kirby and Senator Murray, I am generally supportive of Bill C-6. I am also strongly supportive of the amendment. It might be interesting to Senator Murray and to Senator Kirby that I have just had delivered to me a letter from the Canadian Dental Association. They are not particularly happy with our amendment. They wanted us to go in a different direction. They testified to the committee that they wanted us to strengthen and toughen the legislation. They state that the Canadian Dental Association has always been in favour of passing Bill C-6 with amendments that would provide for greater protection of personal information through informed consent versus the weak consent provisions included in the CSA code.

I agree with them. I would also like to see much stronger protection. The dilemma faced by the committee regarded consent. If we had put aside all other aspects of the bill to deal only with the increased need of privacy protection for the health community, I suggest to you, honourable senators, that we would not be able to pass any aspect of this bill for probably a six-month period. The purpose of our amendment was to allow quick passage and enforcement of the sections of the proposed legislation that address e-commerce outside of the health care field. Meanwhile some sober second thought could be applied, not necessarily by this chamber but in discussions between the health community, the industry community, the health minister and his staff, and the industry minister and his staff. Perhaps those parties can come up with amendments to make this legislation meet the needs and objectives of the health care industry.

Honourable senators, that issue became the focus of my concern throughout our study of the bill. Some witnesses spoke only to the e-commerce sections of the bill. They came from the computer industry, from informatics, from the banking industry, from the marketing industry, and they were all in favour of this bill, taking only minor exceptions with its contents. In fact, they were glowing in support of this bill. They talked about the monumental achievement of getting a consensus from all of these groups on the CSA code.

As Senator Kirby indicated, the problem arose when the medical community, who thought they were completely outside

this bill, found out, as late as June 1999, that they were not outside the bill. They discovered that their activities would be captured by some aspects of the bill.

Committee members found out quickly that the medical community did not have a consensus position. The doctors and the dentists claimed that their own codes were tougher and better than the CSA model code. We then heard from pharmacists and those in the business of collecting health care information who, quite frankly, wanted a total exemption. I, for one, was not prepared to give them a total exemption. If they want to use or sell my information, then I should have some say over exactly what information will fall into their fat little hands.

More important, we never dealt with two critical issues — the definitions of “commercial activity” and “informed consent.” I was surprised to hear the Privacy Commissioner state that all consent is informed consent. With the greatest of respect to Bruce Phillips, I do not think so. If I am dragged off to an emergency room where I face five doctors and 16 other staff who say I need certain urgent medical interventions, quite frankly I will sign anything. I hope that anyone who may be acting on my behalf will sign anything that will get me the care I need at that moment. Surely, that is not informed consent. I do not know what side effects can be expected from the proffered treatment and, frankly, at that moment, I am not terribly concerned about any side effects.

The definitions have not been clearly addressed in this bill with respect to personal health information. I am therefore fully supportive of the committee’s recommendation that we put in a delay so that some of these dilemmas can be addressed. Honourable senators, the involved parties needed to have their feet put to the fire. The testimony heard by the committee members was divided and confusing. Time is needed to define clear rules governing personal health information after dialogue between all the players who are involved in the collection and use of personal health information.

Simply allowing two years before the coming into force of the bill does not achieve our objective. Our course of action in amending the bill will, in effect, put the feet of the stakeholders to the fire. It will ensure that they get together and address the issues properly. Canadians deserve clear guidelines concerning the use of their personal health information, including the requirement for informed consent.

Most Canadians would not wish to be so protective that their health care information was not available for research that may help to cure a disease or condition. If such information is needed for testing of new drugs, then a balance must be found. That balance does not exist in this legislation. We can only hope that, by our sober second thought and this amendment, a balance will be found.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a short question. I alerted Senator Carstairs to this question earlier today.

I have not looked at the bill as carefully as I should have nor have I read the testimony. However, in listening to the arguments, I am concerned about separating, as a question of public policy, the identity of the person whose information is being sought and the content of that information.

As an example, the Princess Margaret Hospital in Toronto serves 60,000 female breast cancer patients every year. Next door, the Mount Sinai Hospital sees 25,000 women every year at their breast cancer clinic. So within 100 yards on that city block, every year, 85,000 Canadian women are going through that process. That information is now collected and correlated with research and diagnosticians, all in central locations. There has been a majestic leap forward in at least the environment for treating breast cancer.

• (1630)

Having said that, in order to project a cure, the content of the information available is inseparable from an advance in research. Without that information which is gathered, correlated and sorted, there will be no advance whatsoever in moving against the horrible disease of breast cancer. I can apply exactly the same rationale when it comes to HIV, or any disease that takes hold of us.

I am still not clear whether either the committee or the amendment deals with this fundamental issue. In effect, does it dilute the problem and impose barriers to researchers for access to the information that is necessary for the advance of research? Instead of applauding ourselves, are we not stultifying research?

Senator Carstairs: Honourable senators, it might interest you to know that we heard from two groups of researchers who had two different opinions on this matter. One group felt that we had to have more controls to protect the privacy of the individuals giving the information. The other group wanted research of this nature totally exempted from provisions of the bill. They felt that these controls would result in the worst case scenario, to which the honourable senator has referred, in terms of not being able to develop the very kind of epidemiological information that is required.

Interestingly enough, Dr. Keon came down on the side of the need for tougher controls in terms of the patient-doctor relationship. I do not think I am misspeaking Dr. Keon on this point because he was very strongly in support of the Canadian Medical Association's presentation which called for tougher guidelines.

The honourable senator has identified our dilemma. We had serious presentations from people who said to us that, indeed, this measure would curtail the very kind of research data collection to which the honourable senator has referred. Others

said it would not do that. However, the point is that we were unclear as to whether it would or would not. We want this two-year period in order for those protocols to be developed. In that way, we will not be harming research. We will be allowing the collection of data to take place. At the same time, we will be guaranteeing the essential privacy of patients in this country.

Our researchers have done a good job of doing that in the past. There are some who say that an individual who does not want to participate in a research project should have the right to deny their information to that research project. Thus, we need to develop protocols. Frankly, however, we need the time to do it.

Senator Grafstein: Honourable senators, if there is a dilemma at the root of the legislation, what is the rush to judgment? What is the priority that makes us feel so impelled to proceed on this legislation if there are serious questions in the minds of some of the proponents of the bill?

Senator Carstairs: The problem with the legislation, Senator Grafstein, is that for the most part no one — and certainly no one in the House of Commons — dealt with the impact of health information on this bill.

Senator Grafstein: Another sloppy job in the other place.

Senator Carstairs: They did a sloppy job in the other place. To be fair to them, they did not do it deliberately.

The health care people themselves called the Department of Industry. They were told, "It is an e-commerce bill. It does not impact on you." As a result, the normal health care industry witnesses who might well have come forward did not come forward early in the game because they did not think the legislation would impact upon them. It was only in May or June of this year, after the bill had been through the process in the other place, that the health care community became sufficiently concerned to say, "This bill does impact on us. Thank goodness we have another chamber, a chamber of sober second thought, to which we can now go to make our case." That is exactly what they did.

Having said that, probably 90 per cent of the bill deals with e-commerce, issues that have nothing to do with the public health care field. They are positive pieces of change to guarantee privacy in the area of Internet shopping, and the spreading and sharing of information on the Internet. Those kinds of things should in my view go into force and effect as soon as possible. I would hate to delay the whole process because of this window which we have, I hope, opened and through which some fresh air will be allowed to flow so that we can examine the subject and perhaps force some positive changes with respect to public health information.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Hon. Dan Hays (Deputy Leader of the Government): On division.

Motion agreed to and report adopted, on division.

The Hon. the Speaker: Honourable senators, when shall this bill, as amended, be read the third time?

On motion of Senator Kirby, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

CRIMINAL RECORDS ACT

BILL TO AMEND—REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming the debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Chalifoux, on adoption of the second report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill C-7, to amend the Criminal Records Act and to amend another Act in consequence, with amendments) presented in the Senate on November 30, 1999.

Hon. Pierre Claude Nolin: Honourable senators, I shall try to be brief. I do not intend to again begin exploring the components of this bill.

I am rising today to support adoption of the second report of the Standing Senate Committee on Legal and Constitutional Affairs concerning Bill C-7. I should like to tell you about a criminal case before the courts in Quebec at the present time. There is a link between it and Bill C-7.

It is clear, honourable senators, that in the event of sexual assault on children or vulnerable individuals, action must be taken promptly. One offence is one too many. The consequences are serious, and we must do everything in our power as parliamentarians to prevent the recurrence of such events.

I would like to demonstrate the need for Canada's Parliament to pass Bill C-7 by referring to a case of sexual assault earlier this year on three children in a daycare centre in Quebec. I will not name the city involved, because criminal charges are pending. I will try to avoid revealing too many of the details of this criminal matter, but I want, nevertheless, to give them to you within the limits of parliamentary rules.

In 1985, a prominent man in a city in Quebec established a daycare centre. This was the only daycare centre in the city, located near Montreal. On November 22, he was arrested and charged with sexual assault on three little girls aged four, who had been entrusted to his care.

Released the same day, he was arrested again the following day for having returned to the daycare centre and spoken to the teachers there, thus being in breach of the conditions of his release.

• (1640)

It is the Youth Protection Branch that alerted the municipal police after receiving a complaint from parents who were sending their children to the daycare centre. The whole thing started when it was recently discovered that, in 1992, the same individual had been found guilty of similar acts and given a suspended sentence.

At the time, no one in the town where that person set up the daycare centre, not even the police, had been informed of his criminal background. The local chief of police only found out about it on October 26, a few days before the charges were laid.

Honourable senators, these events have created quite a stir in society and the media in Quebec over the last two or three weeks. The Quebec Minister of the Family, Mrs. Léger, had to respond to accusations of laxness levelled against her department regarding verification of the criminal background of owners of daycare centres when issuing permits for this type of operation.

To ensure that parents who send their children to Quebec daycare centres do not lose confidence in the process to deliver permits to operate a daycare centre, the Minister of Public Security, Mr. Ménard, announced on November 25 an action plan to deal with the situation. The plan provides for greater cooperation between the Department of the Family and the Sûreté du Québec to ensure that the judicial records of all daycare centre permit holders are checked to avoid a repeat of cases such as the one I related earlier.

That same day, the Minister of the Family also announced additional measures to meet the concerns raised by a Liberal MNA, Mr. Copeman. On November 25, during Question Period in the National Assembly, Mr. Copeman had asked the government whether the measures to be taken to check judicial records applied to the 12,000 Quebec workers in the daycare system.

According to Minister Léger, a new control mechanism should be in place by the beginning of next year, in other words, in a few days, for doing a background check on Quebec's 12,000 daycare workers. Part of this responsibility will fall to the holders of daycare licences and to members of the boards of directors of centres for the care of very young children, all of whom will be monitored by the Department of Public Security. This extensive operation will be launched in the next few days and will be pursued intensively in the coming months.

I am sure, honourable senators, that those of you who have followed the work of this chamber on Bill C-7 will know where I am headed. The National Assembly, in its enthusiasm, or by a very unfortunate combination of circumstances, forgot that this came under the authority of this Parliament. Although we are concerned about what happened in Quebec, we can only be satisfied that this Parliament was clear-sighted enough to give thought to the rules that Bill C-7 will make it possible to introduce.

It was not my intention to speak at length, but I wished to relate the grim story now unfolding in Quebec. As Senator Andreychuk reminded us yesterday, Bill C-7 is certainly not a panacea. It is not a miracle solution. We must not think that, because we are introducing these rules, we will all now be protected when we put our children in daycare. On the contrary, we are authorizing the introduction of an additional mechanism for the protection of children and other vulnerable groups. I hope that this measure will have your support at third reading and that it will help make Canada a society where it is still possible to live in safety.

Hon. Gérald-A Beaudoin: Honourable senators, I would like to say a few words about Bill C-7, to amend the Criminal Records Act.

The chair of the Standing Senate Committee on Legal and Constitutional Affairs, the Honourable Lorna Milne, spoke about our committee's report yesterday. I support this report.

Essentially, Bill C-7 addresses the process of rehabilitation and is aimed at facilitating the social reintegration of criminals who have demonstrated during incarceration their desire to become law-abiding citizens.

Initially, this bill contained certain flaws, which have been corrected thanks to the amendments called for by the committee. It now gives a definition of "child" and of "vulnerable persons". Such important definitions cannot be relegated to the regulations. Regulatory powers are now given in the bill; the system of flagging records is limited only to those individuals who have been found guilty of sexual offences. A list of the offences involved is appended to the bill.

In closing these few remarks, I must state that, when the committee studies any matters relating to criminal records, as is the case with this bill, or some related subject such as DNA, we always step up our efforts in order to be assured of compliance with the Canadian Charter of Rights and Freedoms. As we all know, sections 7 and 8 of our Constitutional Charter protect privacy. This is a fundamental value of our system. I believe that it can be stated that Bill C-7, which we have before us, respects the Constitution, including the 1982 Constitutional Charter, to the best of our knowledge.

[English]

Hon. Joan Fraser: Honourable senators, I should like to speak very briefly on the issue raised yesterday by Senator Andreychuk because it is an important issue.

• (1650)

She is concerned, and rightly so, about the possibility that the integrity of the pardon system will be eroded if we start nibbling away at it. I think the members of the Standing Senate Committee on Legal and Constitutional Affairs were in profound agreement, first, that we wish to preserve the integrity of that system and, second, that this particular bill does not erode that integrity, that the exception it provides to the fundamental weight of the pardon system is so small and so justifiable that we should not be ultimately concerned about it.

It is a small exception in terms of statistics, honourable senators, and I thought you might be interested to know those statistics. In the past 28 years, nearly one quarter of a million pardons have been granted for all offences in Canada. Only 4,500 of those pardons concern sex offenders. We are talking about a very small proportion indeed of the total number of people who have received pardons. The bill, with the amendments brought forward, is very clear that it applies only to sexual offences. Parliament would have to authorize any other intrusion into the integrity of the pardon system, and I think Parliament would think long and hard before doing so.

The Hon. the Speaker: If no other honourable senator wishes to speak, I will proceed with the motion for adoption of the report.

Is it your pleasure, honourable senators, to adopt the motion?

Honourable senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker: Honourable senators, when shall the bill be read the third time?

On motion of Senator Fraser, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—
SECOND READING

Hon. Nicholas W. Taylor moved the second reading of Bill S-14, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.—(*Honourable Senator Taylor*)

He said: Honourable senators, I will probably have the shortest speech on record.

This bill has been given second reading three times in the last six years. This time, nothing has changed. The Moravian Church came here at the turn of the century, just after the Senate was formed. The Senate has been working on this bill since 1986, when the church first approached us just to change their name, so that it is the same in French and English, and to change their corporation. They do not like having to come here to ask our permission, but that was one the founding articles of the church back at the turn of the century.

Therefore, I would ask honourable senators to move this bill forward.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Senator Taylor: Honourable senators, with leave, at the next sitting of the Senate.

The Hon. the Speaker: Honourable Senator Taylor, bills are normally sent to committee. That is the normal practice.

Senator Taylor: I know that, honourable senators, but this is not a normal bill. It is the third time that it has been before us. However, that being the case, I move that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

The Hon. the Speaker: It is moved by the Honourable Senator Taylor, seconded by the Honourable Senator Poy, that the bill be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Hon. Eymard G. Corbin: Honourable senators, unless someone is critical of this bill, in view of the fact that it has already been to the committee, as the Honourable Senator Taylor has just said, surely it is within the powers of this chamber to decide to skip that part of the process and move on to third reading. I am wondering if there is not a will to do just that, unless it has some element of controversy that merits its re-examination at committee stage.

The Hon. the Speaker: Honourable senators, I am in the hands of the Senate, of course. I only reminded the Senate that the normal practice is to send all bills to committee.

Senator Corbin: Then I will move a motion to that effect.

The Hon. the Speaker: I am sorry, I have a motion before me now.

Senator Corbin: Then, honourable senators, I will move an amendment to the motion. I move that the bill not be referred, as is the usual practice, to the said committee, but that the Senate agree to proceed with third reading at the next sitting of the Senate.

The Hon. the Speaker: It is moved in amendment by the Honourable Senator Corbin, seconded by the Honourable Senator Ferretti Barth, that the bill be not now sent to committee but, rather, that it be immediately sent for third reading at the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Hon. Senators: Agreed.

Motion in amendment agreed to.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion as amended?

Hon. Senators: Agreed.

Motion, as amended, agreed to and bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1700)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO ENGAGE SERVICES AND TRAVEL

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane:

That the Standing Senate Committee on Energy, the Environment, and Natural Resources have power to engage the services of such counsel and technical, clerical, and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject-matters of bills and estimates as are referred to it; and

That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies.—(*Honourable Senator Hays*)

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have had an opportunity to discuss this motion with the mover, Senator Spivak. I wish to suggest that we deal with this matter now. With leave, we could modify it or deal with it by way of amendment. I suggest the Senator Spivak change the motion by deleting the words "and outside" from the last sentence so that it would read "That the Committee have power to adjourn from place to place within Canada for the purpose of such studies" and not as it now reads, namely, "That the Committee have power to adjourn from place to place within and outside Canada for the purpose of such studies."

I invite Senator Spivak to comment on that modification.

Hon. Mira Spivak: Honourable senators, in my discussion with Senator Hays, I did agree to this subject on two conditions: first, that this sets a level playing field for all committees; and, second, that the question of outside travel may be raised as the occasion permits or at the end of the fiscal year.

Senator Hays: Honourable senators, I do not believe I can accept conditions but perhaps I can satisfy Senator Spivak by indicating that I know of no other committee that has such power. It would be my intention, as Deputy Leader of the Government in the Senate, to take the same position with respect to other committees that I am taking with respect to the Energy, Natural Resources and the Environment Committee.

Of course, Senator Spivak, any committee can come to this place for leave or permission or instructions to travel outside of Canada. I hope that satisfies the honourable senator on that count.

[Translation]

Hon. Fernand Robichaud: Honourable senators, the amendment proposed by Senator Hays asks that the committee be authorized to adjourn from place to place within Canada. Last year, the Fisheries and Oceans Committee wanted to do this and it was more or less recommended that it not do so via a subcommittee, because that would require the committee to authorize expenses. In this case, is the committee receiving the necessary authorization and funds automatically to travel throughout Canada without needing to refer a request to the Internal Economy Committee?

[English]

Senator Hays: Honourable senators, I will treat that as a question to me in debate on this matter.

The answer to Senator Robichaud's question about whether or not resources are automatically allocated to a committee for purposes of travelling within Canada is, "No; they are not." As a former chair of the Energy Committee, and the person responsible for getting the rather broad mandate that I am now questioning as Deputy Leader of the Government, that broad

mandate was requested because the committee has a practice of participating in conferences and events that take place in other parts of Canada. For instance, Senator Spivak has indicated to me that the committee would like to send a representative or representatives to the Globe 2000 Conference. The committee has always sent a representative to that conference and it reports back to the committee. I think it is very useful to the work of the committee. However, to obtain the resources to send a representative or a member of the committee, it is necessary for it to go to the Internal Economy Committee and have a budget approved. In the normal course, that committee does just that. That is the only answer I can give Senator Robichaud.

I would invite Senator Spivak to indicate whether she is prepared to modify her motion or whether it would be necessary to amend it.

Senator Spivak: Honourable senators, I am prepared to modify it. In response to Senator Robichaud, all items are specifically listed and will be thoroughly gone over in view of what we have before us for this coming year.

The Hon. the Speaker: Honourable Senator Spivak, do I understand, then, that you are requesting that we remove from your motion the words "and outside"?

Senator Spivak: No, just the words "and outside Canada." Those are the words that should be taken out.

Senator Hays: No, just the words "and outside."

Senator Spivak: Yes, you are right, "and outside."

The Hon. the Speaker: Is there consent that these words be removed from the motion?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, we are back to the main motion, as amended. Shall we proceed with the question?

Hon. Senators: Agreed.

The Hon. the Speaker: It was moved by the Honourable Senator Spivak, seconded by the Honourable Senator Cochrane, that the Standing Senate Committee on Energy, the Environment and Natural Resources —

An Hon. Senator: Dispense!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion, as modified?

Hon. Senators: Agreed.

Motion as modified agreed to.

[Translation]

REVIEW OF ANTI-DRUG POLICY

MOTION TO FORM SPECIAL SENATE COMMITTEE—
DEBATE ADJOURNED

Hon. Pierre Claude Nolin, pursuant to notice of November 2, 1999, moved:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specific needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for an anti-drug strategy developed by and for Canadians under which all levels of government to work closely together to reduce the harm associated with the use of illegal drugs.

That, without being limited in its mandate by the following, the Committee be authorized to:

- review the federal government's policy on illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;
- develop a national harm reduction policy in order to lessen the negative impact of illegal drugs in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;
- study harm reduction models adopted by other countries and determine if there is a need to implement them wholly or partially in Canada;
- examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights and other related treaties in order to determine whether these treaties authorize it to take action other than laying criminal charges and imposing sentences at the international level;
- explore the effects of cannabis on health and examine whether alternative policy on cannabis would lead to increased harm in the short and long term;
- examine the possibility of the government using its regulatory power under the *Contraventions Act* as an additional means of implementing a harm reduction policy, as is done in other jurisdictions;

- examine any other issue respecting Canada's anti-drug policy that the Committee considers appropriate to the completion of its mandate.

That the Special Committee be composed of five Senators and that three members constitute a quorum;

That the Committee have the power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence from day to day as may be ordered by the Committee;

That the briefs received and testimony heard during consideration of Bill C-8, *An Act respecting the control of certain drugs, their precursors and other substances*, by the Standing Senate Committee on Legal and Constitutional Affairs during the Second Session of the Thirty-fifth Parliament be referred to the Committee;

That the Committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the Committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95 (2) of the Senate Rules; and

That the Committee submit its final report not later than three years from the date of its being constituted.

He said: Honourable senators, on June 14, I tabled in this house a motion asking the Senate to strike a special committee to review Canada's anti-drug policy. Today, I can tell you that I am more determined than ever to proceed with this plan. I do not intend to speak as long as the last time, but I intend to keep you informed of developments in the matter. This subject has aroused a lot of passion and interest. I would like to share it with you today. I do not intend to put the problem Canada faces in the use and traffic of illegal drugs to you once again. I did so amply in my remarks on June 14.

Honourable senators, for the past thirty years, the inaction of successive governments in this area and the intensification of the fight against drugs in the West since the early 1980s have cost Canadian society dearly. The costs associated with the control and elimination of illegal drugs bear no relation to the level of consumption or its effects on society or individuals.

You will no doubt agree, honourable senators, that this situation warrants the most careful scrutiny. This is why, on November 2, I tabled once again before this house a motion calling for a special Senate committee to review Canada's anti-drug laws and policies.

The object of this exercise will be, first, to give Canadians accurate and detailed information on illegal drugs; second, to evaluate the standards of morality in Canadian society with respect to the use of illegal drugs and, finally, to give the Government of Canada the information it needs to develop and enact appropriate legislation and policies reflecting the values and desire of the people of Canada with regard to drugs that are currently identified as illegal.

Honourable senators, you have no doubt noted a change in Canadians' attitude to drug control policies and their results. Canadians are beginning to realize that the significant sums of money being invested in the reduction of the consumption and trafficking of drugs are not producing the desired results.

• (1710)

We also need to know about the experiences of other countries in that area. We must evaluate the alternatives used by other countries, since these are sometimes less costly while ensuring better social rehabilitation for an important segment of society.

Last summer, I had the opportunity to travel across the country and to meet Canadians who were pleasantly surprised by my intention to ask you to form a special Senate committee to review Canada's anti-drug policy. These people came from all walks of life. I met police officers, stakeholders who work with drug users, doctors, fathers and mothers, lawyers, senators, university professors, students and journalists. I also participated in a number of open line programs during the summer. Many agreed that the government's anti-drug policy is not working and that this repressive program was extremely costly while causing much more harm than good.

A number of people said this is not an issue that concerns the justice or criminal system. Rather, it is a public health issue. Many individuals and institutions offered their expertise and resources, and said they wish to participate in the work of the future committee.

At the end of September, during a drug awareness week, I took part in a debate organized by the students' association of the University of British Columbia. One of the guests was none other than Gil Puder, a Vancouver policeman, who unfortunately died last month. For the last 15 years, Mr. Puder had fought against the havoc the fight against drugs had wrought on the population of the poor areas of this city. He spent the rest of his life organizing prevention and awareness campaigns to show young people in the community the harmful effects of substance abuse. He also took part in a number of campaigns to ask the federal government to adopt an anti-drug policy that would see the problem as a public health issue rather than a criminal one.

I take this opportunity to offer my deepest sympathies to his family. I also want to salute Mr. Puder's courage and determination over the years as well as his work as a whole. I must mention that Senator Chalifoux' message of condolences did not go unnoticed and was indeed very much appreciated.

Last month, I took part in two similar exercises at the University of Ottawa and the University of Moncton. Despite very busy schedules, many students put themselves out to take part in the discussions. This was a very rewarding experience for me, because the students, contrary to what one might think, are not necessarily in favour of total legalization of marijuana and other illegal drugs, but they are in favour of investigation into alternative solutions to the present repressive policies.

In reaction to the announcement of my project, there was a positive reaction from a number of editorial writers and media commentators all over Canada. They expressed surprise that such an initiative could come from the Senate. I would say that they perceived my motion as a breath of fresh air over the Canadian political landscape.

In this connection, *The Globe and Mail* of June 21 voiced the opinion that the Senate should absolutely give its agreement to this project in order to demonstrate for once and for all that our present drug policies no longer work, and I quote:

[English]

Some public policy issues are so touchy that politicians do almost anything to avoid discussing them. The law's view on the non-medical use of drugs is one such issue.... A thoughtful Senate report could document the high direct cost of the current policy and compare it with the realistic alternatives. If that report were to meet with broad public support, it could convince timid politicians that reforms are acceptable. It was politics, not reason, that led MPs to veto a joint Commons-Senate study of the question three years ago. Senators would perform a public service if they did the job on their own.

[Translation]

Honourable senators, this past November 26 at a meeting of mayors of the 21 largest cities in Canada, the members of the Canadian Federation of Municipalities, I presented my project. This association has more than 600 member municipalities and two years ago it adopted a resolution in support of the federal government's prohibitionist approach to illegal drugs. This resolution called upon the federal authorities not to modify the provisions of the present Controlled Drugs and Substances Act.

On April 21, however, the Canadian Association of Chiefs of Police recommended to the federal government the decriminalization, not the legalization, of possession of small quantities of narcotics, including heroin. What was most encouraging about the position of the association was that it recommended to Canadians and the federal government the adoption of an approach that would handle all issues relating to drug abuse as public health problems. I would remind honourable senators that this position has the support of the RCMP.

Since this stand, the Federation of Canadian Municipalities has been revising its position on this issue. It is attempting to come up with a new strategy focusing on harm reduction for drug users. The federation, on behalf of its members, sent a letter to the Minister of Justice calling on the government to establish a forum where this issue could be debated. That is what I am proposing today, with the creation of a special committee on illegal drugs.

The municipalities have an important role to play in the reform of our anti-drug policies. They are the level of government closest to the citizen. They play a special role in identifying the main problems and social repercussions resulting from our repressive anti-drug policies. The mayors are aware of this responsibility and they have asked what they could do to change things. Like all of us, they are looking for alternative solutions to these social problems. And, like us, they have reached the conclusion that the repressive policies used to control illegal drugs are ineffective and very costly to the public.

Furthermore, members of the caucus of mayors of major Canadian cities congratulated senators on having been receptive to my proposal of last June. In addition, the caucus unanimously approved the motion before you in its entirety.

To that effect, the Mayor of Edmonton, Bill Smith, wrote me as follows on November 29, 1999:

[English]

I certainly support the motion you brought forward to the Senate. In my mind, this certainly supports the need for a Senate and the good work that body does. As I mentioned at the meeting, I am always upset when I hear people in this country criticizing the Senate. I personally know many Senators and how hard they work for Canada.

[Translation]

I should like to point out that a number of mayors I met with wanted to contribute to the work of this committee.

Let us return now to the work of the committee. Based on the mandate described in the motion, the study I propose today would be divided into 12 themes. Honourable senators wishing to take part in the work would be welcome, but for purposes of efficiency, I am trying to limit the number of senators assigned to the work of the committee to five. Each of the five senators who would be members of the committee will have to agree to take on research work on two or three of the 12 themes. I would warn you that the job of directing research and selecting witnesses would not be reserved for the director of research and the committee coordinator. It would be hard work. Each of the senators taking on these subjects would have to report to the other members of the committee on the progress of their research.

• (1720)

Some of you might say that this approach is too rigorous. I would reply that I believe we will fulfil our mandate objectively and responsibly by taking this approach. We want to provide transparent and objective information checked by committee members. If we want to raise the level of the debate to a more serious level and properly inform Canadians and the government, we have no choice but to adopt this type of approach.

Honourable senators, I do not intend today to address in detail each of the 12 themes included in this study. I will speak only of those I consider really important for the deliberations of the committee to examine these issues.

You have all, I am sure, read the document I gave you in June. I am sure you noted in reading it that if we are serious in our approach. First, we absolutely must give Canadians all possible information.

Once they have been informed about all this, the committee will need to invite them to participate so that we may determine what their level of morality is in connection with drugs. Why do I use the word "morality", honourable senators? You will understand that by reading the documentation on the history of prohibition in Canada and in the world. You will understand that public health issues have never been taken into consideration when the time comes to legislate and to prohibit, and this dates right back to the first prohibition: opium.

There was never, or hardly ever, any question of public health; it was very much one of public morality, racism, international trade, the importance of pharmaceutical companies. The prohibition we know today was completely a matter of business and of morality.

Canadians will understand that the signatories of these treaties were somewhat calling the shots for the people of our countries, for the trusting parliamentarians never looked back to see where prohibition had come from. We bought what our ancestors had told us, so we continued with prohibition and signed treaties to step up prohibition.

Today we are back in the situation described by Dr. Riley in the report I tabled last June. I could speak for a long time on this, but I do not intend to take up any more of your time. You have before you the detailed parameters of the mandate I am asking of you for the committee, a three-year mandate.

As I said, each member would have responsibility for certain facets of the overall mandate and this will be a very demanding task. Why? Because there is a great deal of research in the field. It may be the most studied subject in the last half of the 20th century. An inventory will have to be made of this research, setting aside the dubious studies, because no matter which side you are on, you will find there has been loaded research. This will have to be weeded out and concentration focussed on pure scientific research.

Each committee member would have responsibility for one facet of the examination. This could easily take close to two years. After that, an interim report would have to be produced, informing Canadians of what we have discovered, and sounding out their reactions in order to move to the report stage.

There will be a federal election along the way. I would like to think we will be able to avoid the shoals occasioned by a federal election, especially when it involves such a sensitive issue. I prefer, therefore, to have more than less time to do the work and thus avoid being forced to produce a report that would be fed to the politicians, who will be looking for subjects that might arouse the passions of Canadians without their being given all the information necessary.

Honourable senators, I am proposing to you the establishment of a special committee, and, if you have questions, I am at your disposal to give you answers.

On motion of Senator Kenny, debate adjourned.

FISHERIES

COMMITTEE AUTHORIZED TO STUDY MATTERS RELATED TO ITS MANDATE

Hon. Gerald J. Comeau: pursuant to notice of December 2, 1999, moved:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to the fishing industry;

That the Committee report no later than December 12, 2000; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

[English]

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to make a comment on the creation of terms of reference on a broad issue such as fisheries, which is essential and which I support completely. We had one last week on agriculture, and one on forestry. Senator Nolin is asking for one on illicit drugs. Senator Kirby is asking for one on health services. Some of these may go on for a year or two. In Senator Nolin's case, it will be three years.

Before we go too far in the approval of these special studies, we should get an idea of the cost involved, particularly since our committee budget, as far as I know — and I do not think things have changed much in recent years — is always very stretched. This is probably the one item on the budget which is most called

upon and always underfunded. I do not want to put a halt to the study suggested by Senators Comeau and Robichaud. However, before we go too far, I feel that we should have some global idea as to how much these studies will cost the Senate and how much we are committing over the next two and three years. We may find that we cannot complete some of these studies for lack of funds or lack of foresight.

• (1730)

Senator Comeau: The problem with presenting a budget prior to seeking the mandate is that, not having a mandate, we cannot present a budget. First, we need to have the mandate, after which we can go back to committee and prepare the budget. If the Standing Committee on Internal Economy, Budgets and Administration feels that we should not proceed with the study, it can be discussed at that point; however, we simply cannot prepare a budget without having first had a mandate.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wish to ask a question of the Honourable Senator Comeau. I think I know the answer, but let me confirm. I believe this motion is being brought with the approval of the members of the committee, and I assume the unanimous approval, but I would appreciate a comment.

I understand Senator Lynch-Staunton's point as well as the one Senator Comeau is making. As chair of a committee, it is difficult to know which comes first in these matters. In any event, I know the committee did excellent work in the last Parliament on such a reference. The committee incorporated into it — and we will come to this at some point in the chamber — a reference to the Estimates to aid it in having a basis for its study.

I would appreciate a comment on the status of the committee's decision in coming to the Senate with this motion.

Senator Comeau: Honourable senators, the motion to which the Deputy Leader refers, that referring to Estimates, is actually the third motion I shall be making. I shall come to that in a few moments. The third motion I shall be presenting is that, in the event the Estimates are referred to the committee, we would then need to have the means of depositing them. However, for the time being, if the Estimates are not referred to our committee, of course we would not be referring them to the clerk if the Senate is not sitting.

[Translation]

Hon. Fernand Robichaud: Honourable senators, if I may add a few comments and perhaps reassure the Honourable Senator Lynch-Staunton, when we considered this motion, it involved having quite a broad mandate to enable us to examine all issues relative to fisheries. It was clearly understood that, if we were to travel, a budget would be prepared and presented to the Committee on Internal Economy, Budgets and Administration so we could comply with the directives given each committee to monitor their spending.

Last year, the Committee on Fisheries and Oceans put off a trip to the West Coast because it could not find the funds to make the trip. It is understood that it is not a matter of budget and of traipsing around Canada.

Senator Lynch-Staunton: It was not my intention to cast a shadow over the motion of Senator Comeau. I wanted to ask that we be as careful as possible, since our budgets are very limited. However laudable the studies proposed, particularly the one to take place over two or three years, it would be a good thing for the Senate to be informed of the costs immediately in order to avoid any unpleasant surprises.

The Hon. the Speaker: Honourable senators, no other senator wishes to speak. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Gerald J. Comeau, pursuant to notice of December 2, 1999, moved:

That the Standing Senate Committee on Fisheries be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[English]

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Gerald J. Comeau, pursuant to notice of December 2, 1999, moved:

That the Standing Senate Committee on Fisheries have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

Motion agreed to.

[Translation]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

Hon. Lise Bacon, pursuant to notice of December 6, 1999, moved:

That the Standing Senate Committee on Transport and Communications be authorised to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

Hon. Eymard G. Corbin: Honourable senators, increasingly, all committees are seeking authorization from the Senate to broadcast their public hearings on the radio and television. It has come to the point where we should give a blanket authorization to all committees wishing to proceed in this manner. After all, we live in an age when everyone is plugged in, where everyone wants to see and hear what is going on. This requirement has become superfluous. The Standing Senate Committee on Privileges, Standing Rules and Orders should examine this prerequisite and strike it from the Rules. Committees should be left to make up their own minds in this regard.

The Hon. the Speaker: Honourable senators, are there any other senators who wish to speak?

Hon. Senators: No.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

COMMITTEE AUTHORIZED TO ENGAGE SERVICES

Hon. Lise Bacon, pursuant to notice of December 6, 1999, moved:

That the Standing Senate Committee on Transport and Communications have power to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of its examination and consideration of such bills, subject matters of bills and estimates as are referred to it.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, December 8 at 1:30 p.m.

CONTENTS

Tuesday, December 7, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		QUESTION PERIOD	
His Excellency Mr. Farès Bouez		Transport	
Lebanon—Member of Parliament for Kesrouan.		Possible Takeover of Canadian Airlines by Air Canada—	
Senator De Bané	377	Service to Regional Airports. Senator Cochrane	383
Human Rights		Senator Boudreau	383
Senator Ruck	378	Treasury Board	
Sudan Peace Process		Preparation for Year 2000— Possibility of Hearing by	
Senator Wilson	378	Committee of the Whole. Senator Forrestall	384
Violence Against Gays and Lesbians		Senator Boudreau	384
Senator Cohen	378	Senator Hays	384
Canada-United States Relations		Heritage	
Problems at Border Crossings. Senator Grafstein	379	National Hockey League—Possible New Lottery to Support	
Ontario		Canadian Teams—Announcement by Minister.	
Regional Restructuring Legislation— Proposal to Declare		Senator Tkachuk	384
Ottawa Unilingual English. Senator Poulin	379	Senator Boudreau	384
Senator Prud'homme	380	Intergovernmental Affairs	
Visitors in the Gallery		Quebec—Possible Conditions of Referendum— Timing of	
The Hon. the Speaker	380	Announcement by Prime Minister. Senator Murray	385
		Senator Boudreau	385
		Labour	
		Plight of Homeless—Status of Government Strategy.	
		Senator Robertson	385
		Senator Boudreau	385
ROUTINE PROCEEDINGS		Foreign Affairs	
Income Tax Conventions Implementation Bill, 1999 (Bill S-3)		Report of Canadian Council for International Co-operation—	
Report of Banking, Trade and Commerce Committee.		Recommendation to Establish Task Force—Government Policy.	
Senator Hervieux-Payette	380	Senator Roche	386
Bill Referred to Foreign Affairs Committee.	380	Senator Boudreau	386
Personal Information Protection and		Plan to Establish Coherent Foreign Aid Policy. Senator Wilson ..	386
Electronic Documents Bill (Bill C-6)		Senator Boudreau	387
Report of Committee. Senator Kirby	381	Composition of Budget for Foreign Aid. Senator Andreychuk ...	387
Adjournment		Senator Boudreau	387
Senator Hays	381	Provision of Foreign Aid Conditional on Human Rights Record—	
Canada-United States Interparliamentary Group		Government Policy. Senator Andreychuk	387
CAN/AM Border Trade Alliance Conference— Report of		Senator Boudreau	387
Canadian Delegation Tabled. Senator Grafstein	382	Business of the Senate	
Richard G. Greene		Point of Order. Senator Kinsella	387
Appointment as Honorary Officer of the Senate—		Senator Tkachuk	387
Felicitations on Retirement. Senator Boudreau	382	Senator Hays	388
Senator Hays	382	Senator Lynch-Staunton	388
Senator Lynch-Staunton	382		
Pages Exchange Program with the House of Commons		ORDERS OF THE DAY	
The Hon. the Speaker	383	Business of the Senate	
		Senator Hays	390

	PAGE		PAGE
Personal Information Protection and Electronic Documents Bill (Bill C-6)		Senator Spivak	401
Report of Committee Adopted. Senator Kirby	390	Senator Robichaud	401
Senator Oliver	393	Review of Anti-drug Policy	
Senator Murray	394	Motion to Form Special Senate Committee— Debate Adjourned.	
Senator Carstairs	396	Senator Nolin	402
Senator Grafstein	396	Fisheries	
Senator Hays	398	Committee Authorized to Study Matters Related to Its Mandate.	
Criminal Records Act (Bill C-7)		Senator Comeau	405
Bill to Amend—Report of Committee Adopted.		Senator Lynch-Staunton	405
Senator Nolin	398	Senator Hays	405
Senator Beaudoin	399	Senator Robichaud	405
Senator Fraser	399	Committee Authorized to Permit Electronic Coverage.	
Canadian District of the Moravian Church of America (Bill S-14)		Senator Comeau	406
Private Bill to Amend Act of Incorporation— Second Reading.		Committee Authorized to Engage Services. Senator Comeau ...	406
Senator Taylor	399	Transport and Communications	
Senator Corbin	400	Committee Authorized to Permit Electronic Coverage.	
Energy, the Environment and Natural Resources		Senator Bacon	406
Committee Authorized to Engage Services and Travel.		Senator Corbin	406
Senator Hays	401	Committee Authorized to Engage Services. Senator Bacon	406



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION •

36th PARLIAMENT •

VOLUME 138 •

NUMBER 18

OFFICIAL REPORT
(HANSARD)

Wednesday, December 8, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, December 8, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

SENATORS' STATEMENTS

IN VITRO MATURATION

Hon. Lucie Pépin: Honourable senators, three weeks ago researchers at McGill University reported that they had helped several couples to conceive babies, even twins, using a new and revolutionary method. This method, which facilitates the transformation of a woman's immature eggs into embryos is called *in vitro* maturation. IVM is an offshoot of *in vitro* fertilization, which revolutionized the treatment of infertility in the 1970s. *In vitro* maturation differs from *in vitro* fertilization in that, with IVM, the egg is brought to maturation and then fertilized outside the uterus of the mother while, with *in vitro* fertilization, the already matured egg is fertilized in the laboratory.

IVM was developed in South Korea and Australia in the early 1990s, for women whose eggs did not mature naturally. Until recently, the success rate with IVM was low, but Dr. Seang Lin Tan, Director of the McGill University Department of Obstetrics and Gynecology has changed all that. By successfully bringing eggs to maturity outside the body, he has opened the door to new methods of *in vitro* fertilization with a better success rate than the present 20 per cent. This technique seems to work successfully for women who have tried unsuccessfully to achieve a pregnancy with other methods. As well, the cost is half that of IVF. What wonderful news for the couples who will be able to take advantage of this!

However, where does society fit in all this? With all the new reproductive techniques available, the answer to this is that we are uncertain. We are very pleased for the couples who will now be able to have children because of this technology. However, it is not that simple. Who should benefit from this technology? Who has access to this treatment? What do they need to know before undergoing this treatment? What could the unexpected moral repercussions of this treatment be in the short, medium and long terms? These issues are so complex, and the potential applications of some of these technologies are so vast. There is nothing black and white here; everything is grey.

[English]

In 1993, the Royal Commission on New Reproductive and Genetic Technology presented their report, with a recommendation for the creation of a national reproductive technologies commission. The commission was supposed to do

several things. First, it was to license institutions, set standards and monitor practices in the use of existing reproductive technology. Second, the commission was to collect, evaluate and disseminate information to the public on these technologies. Third, it was to monitor future technologies and practices, and set policy. Finally, it was supposed to facilitate intergovernmental cooperation in the field.

Unfortunately, this recommendation has not been acted upon by the federal government. Each time I read or hear of a new reproductive technology emerging in Canada, I regret the absence of the national commission. We have no national body to examine the implications these technologies raise or to regulate their use.

[Translation]

I urge the federal government to review the recommendations of the 1993 royal commission and to act as quickly as possible to establish a national reproductive technology commission. The problems being raised by these new technologies will not go away. They will become more complex, as science progresses. Now more than ever, we need a permanent institution capable of monitoring the use of new technologies and developing a policy in order to protect the health and well-being of Canadians.

• (1340)

[English]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— PROPOSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL

Hon. Lorna Milne: Honourable senators, by law and by the Constitution of Canada, the Ontario government is master of all the municipalities of the province, and this present government is bound and determined to make that fact extremely clear. Unfortunately, the present government in Ontario has never hesitated for a single second to force its will upon the people of this province. I must point out that the Government of Ontario has never forced the official description of "bilingual" upon any of its creature municipalities. However, Ottawa is a municipality unlike any other. It is the national capital of this bilingual country of ours.

Honourable senators, I strongly urge the Government of Ontario to follow the suggestion of Mr. Glen Shortliffe, their special advisor on the restructuring of the Ottawa-Carleton region, and to declare the new amalgamated City of Ottawa, the capital city of Canada, to be officially bilingual.

Hon. Senators: Hear, hear!

[Translation]

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

FIRST REPORT OF STANDING JOINT COMMITTEE PRESENTED

Hon. Louis J. Robichaud, Joint Chairman of the Standing Joint Committee on the Library of Parliament, presented the following report:

Wednesday, December 8, 1999

The Standing Joint Committee on the Library of Parliament has the honour to present its

FIRST REPORT

Your Committee recommends that it be authorized to assist the Speaker of the Senate and the Speaker of the House of Commons in directing and controlling the Library of Parliament; and that it be authorized to make recommendations to the Speaker of the Senate and the Speaker of the House of Commons regarding the governance of the Library and the proper expenditure of moneys voted by Parliament for the purchase of books, maps or other articles to be deposited therein.

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairs be authorized to hold meetings to receive evidence and authorize printing thereof so long as four (4) members are present, provided that both Houses are represented.

Your Committee further recommends to the Senate that it be empowered to sit during sittings of the Senate.

A copy of the relevant Minutes of Proceedings (*Meeting No. 1*) is tabled.

Respectfully submitted,

LOUIS J. ROBICHAUD
Joint Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Robichaud, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

AGRICULTURE AND FORESTRY

FIRST REPORT OF COMMITTEE TABLED

Hon. Joyce Fairbairn: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Standing Senate Committee on Agriculture and Forestry, which deals with the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(For text of report see today's Journals of the Senate.)

NEWFOUNDLAND

CHANGES TO SCHOOL SYSTEM—AMENDMENT TO
TERM 17 OF CONSTITUTION—FIRST REPORT OF
SPECIAL JOINT COMMITTEE TABLED

Hon. Joyce Fairbairn: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Special Joint Committee on the Amendment of Term 17 of the Terms of Union of Newfoundland, which deals with the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(For text of report see today's Journals of the Senate.)

[Translation]

OFFICIAL LANGUAGES

FIRST REPORT OF STANDING JOINT COMMITTEE PRESENTED

Hon. Rose-Marie Losier-Cool, Joint Chairman of the Joint Standing Committee on Official Languages, presented the following report:

Wednesday, December 8, 1999

The Standing Joint Committee on Official Languages has the honour to present its

FIRST REPORT

Your Committee which is authorized by section 88 of the *Official Languages Act* to review on a permanent basis the administration of the Act, any regulations and directives made under the Act and the reports of the Commissioner of Official Languages, the President of the Treasury Board and the Minister of Canadian Heritage, reports, pursuant to rule 104, that the expenses incurred by the Committee during the First Session of the Thirty-sixth Parliament are as follows.

Professional Services	\$ —
Transportation	—
Other, Miscellaneous	1,218.72
Total	\$ 1,218.72

Your Committee recommends that its quorum be fixed at seven (7) members, provided that both Houses and the Opposition are represented whenever a vote, resolution or other decision is taken, and that the Joint Chairmen be authorized to hold meetings to receive evidence and authorize the printing thereof so long as four (4) members are present, provided that both Houses and the Opposition are represented.

During the session the Committee undertook an examination of Part VII of the Official Languages Act which commits the federal government to supporting and assisting the development of English and French linguistic minority communities in Canada. The Committee held 28 meetings and heard 47 witnesses.

A copy of the relevant Minutes of Proceedings (*Meeting No.1*) is tabled at the House of Commons.

Respectfully submitted,

ROSE-MARIE LOSIER-COOL
Joint Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Losier-Cool, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

QUESTION PERIOD

TRANSPORT

FREDERICTON AIRPORT—STATUS OF NEGOTIATIONS TO TURN OVER TO LOCAL AIRPORT AUTHORITY

Hon. Brenda M. Robertson: Honourable senators, I have a question for the Leader of the Government in the Senate. The issue of uncertain air service to our smaller communities in Atlantic Canada is now on the minds of many of us from the area. However, the Fredericton airport has another problem besides this uncertainty. Anyone who flies in and out of the Fredericton airport recognizes that it has suffered from some neglect over the years.

The federal government is negotiating to turn the airport over to local authorities. However, the chickens are coming home to roost. This neglect has been going on for a long time — approximately 20 years. Because of the neglect of the physical plant and the disregard for its current needs, according to a report in *The Daily Gleaner*, the Greater Fredericton Airport Authority has been informed by its consultants that a \$20-million investment is required to bring the airport up to present

standards, or standards that are required now, shall we say. There are even questions about the main runway being too short.

The federal government is unwilling to make this \$20-million investment before transferring responsibility for the airport to the local operators. When or if this happens, the local authority is left with little opportunity to succeed. Another factor is that airport revenues may fall given the restructuring in the airline industry and the possibility of fewer landings. The odds of a new operator succeeding are even poorer.

In my opinion, this is a matter of fairness. If the Greater Fredericton Airport Authority is to have a fair chance to succeed in operating the airport, which serves New Brunswick's capital city and the central New Brunswick community, the federal government must recognize that its years of treating the airport unfairly must be weighed heavily in the takeover negotiations with the local authority.

• (1350)

Will the Leader of the Government provide this chamber with a status report on these negotiations regarding this serious matter to the residents of Fredericton?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, while I am not familiar with the negotiations with respect to the Fredericton airport, I am aware of the process that has been adopted in other areas of the country. I am most familiar with the Halifax airport, where a similar process was undertaken and similar issues were brought to the fore.

I must pay tribute here to the work of my predecessor in the leader's office, Senator Graham, who was largely responsible for a federal government commitment to provide the funding for capital improvements at the Halifax airport. Obviously, this is a matter which comes under discussion when such negotiations are undertaken. Certainly, the precedent has been set. As to the final result of these particular negotiations, I am certainly not in a position to speculate, but I am aware of the importance of the issue. I am prepared to convey the senator's concerns to the minister in question.

Senator Robertson: Minister, I would appreciate that very much, and I am sure other members of the chamber would as well. You mentioned good cooperation and good results in the transfer of other airports in the region, for example, in Moncton, Saint John, Halifax, St. John's, and so on. Their needs seem to have been met rather well. However, we would appreciate a status report on your intervention with the minister to ensure that the Fredericton circumstance is dealt with expeditiously and with a great deal of fairness. We look forward to your response on this matter.

Senator Boudreau: Honourable senators, I am certainly prepared to raise that issue with the Minister of Transport, the Honourable David Collenette. As well, when the matter presents itself, I will be pleased to discuss it with my colleague in the Privy Council from the province of New Brunswick.

FREDERICTON AIRPORT—INABILITY OF RUNWAY SYSTEM
TO ACCOMMODATE CERTAIN AIRCRAFT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a supplementary question. In his discussion with the Minister of Transport regarding the Fredericton airport, could the Leader of the Government draw to Minister Collenette's attention the Department of Transport 1992 study which recognized the need to extend the east-west runway to 78,000 feet? Currently, that runway can only handle turboprop equipment flying in. The southwest runway can handle DC9s and the BAC146 and, when the weather is good, it can handle the regional jet. I would ask the minister to raise that matter not only with his colleague the Minister of Transport but also with his colleague the Minister of National Defence.

In other words, honourable senators, the Canadian Armed Forces Airbuses cannot land at the largest Canadian Forces base in Canada, which seems rather extraordinary. When there is troop movement from base Gagetown — the largest Canadian Forces Base not only in Canada but also, in terms of geography, in the British Commonwealth — they must bus in from Moncton, which has a longer runway so that it can handle the Armed Forces Airbuses. I wonder whether that second dimension of the need, reflected in the Department of Transport's own study of 1992, and secondly, in the reality that CFB Gagetown is right there and they cannot land their equipment, could be addressed?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I would be happy to relay the comments of the Deputy Leader of the Opposition to the ministers in question. My experience, as limited as it is, has been that the negotiating process is pretty vigorous — at least, it was in the Province of Nova Scotia. All the factors are generally brought to bear, in a forceful way, by the airport authority which is negotiating in hopes of reaching that overall agreement with the minister. I suspect the length of the runway issue has already been raised with the minister, but I will convey the comments of both senators who have raised this matter.

[Translation]

INTERGOVERNMENTAL AFFAIRS

ONTARIO—REGIONAL RESTRUCTURING LEGISLATION—
PROPOSAL TO DECLARE OTTAWA UNILINGUAL ENGLISH

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate. As we all know, the day before yesterday the Conservative Harris Government of Ontario rejected the recommendations of the Shortliffe report on restructuring government in the region with respect to institutional bilingualism. According to Premier Harris and company, the capital of the country would be unilingual English. This new City of Ottawa will group under one administration all of the urban municipalities in the region of Ottawa-Carleton. This decision by the Harris Conservatives shows just how ignorant they are of the Canadian reality, the reality of a country with two official languages.

For Canada to have a unilingual national capital is unacceptable and intolerable. We would be the only capital in the world rejecting institutional bilingualism. I know no other country with two or more official languages that does not respect linguistic duality in its capital.

Can the minister tell us whether the federal government intends to pressure Mr. Harris and his government to respect both official languages, French and English, in our country's capital?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the statements which have been made in this place by the honourable senator, as well as by Senator Milne earlier today and by others yesterday, reflect my own view that it is entirely appropriate for the capital of our country to be bilingual. While we recognize that municipal government is a responsibility of the provincial authorities, Ottawa is a city unlike any other city in Canada. It is the capital of our country. Before answering on behalf of the government, honourable senators, I wish to indicate my own strongly held personal views that Ottawa must be a bilingual national capital.

Honourable senators, the Prime Minister has spoken out publicly on this issue. He will be contacting the Premier of Ontario and very strongly urging the Premier to take the necessary action to ensure that Ottawa becomes the bilingual capital of our country.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, I have listened to the response of the Leader of the Government and I agree with him entirely.

Senator Gauthier: Honourable senators, I understand the government's position. The Municipality of Ottawa-Carleton is a creation of the provincial government and therefore comes under its jurisdiction. Nevertheless, in light of the province's refusal to declare the national capital bilingual, can the minister say whether the federal government will use its constitutional power or its powers under the Official Languages Act to resolve this situation and ensure that an enlarged City of Ottawa is and remains the nation's capital with two official languages?

[English]

Senator Boudreau: Honourable senators, it has been the view of very learned individuals, including senators, that, under section 16 of the Constitution Act, there is some jurisdiction for the federal government to intervene in issues of this type.

• (1400)

I am not pronouncing on that issue from a legal point of view, except to say that the members of the federal government and the Prime Minister are currently reviewing this matter. Any constitutional issue is complicated and usually requires clear study.

Quite frankly, I think it would be the view of the government that this matter be resolved without any reference to other proceedings through the court system. It is hoped that the Premier of Ontario will respond to the very clear expressions of Canadians, including senators who have raised the issue the Prime Minister, and other prominent individuals. One would hope that the Premier of Ontario will take those comments seriously, will take them to heart and will change his initial reaction.

[Translation]

Senator Nolin: Honourable senators, my question is for the Leader of the Government in the Senate. I agree with his reply and with what the government is trying to affirm.

There is no doubt that the question of what is to be done with Hull, which is also part of the National Capital Region, will have to be asked. That is another problem entirely.

What financial assistance is the government prepared to provide in order to ensure that the Government of Ontario does not cite economic reasons for failing to act?

[English]

Senator Boudreau: Honourable senators, this is an issue which will require a frank discussion between the Prime Minister and the Premier of Ontario. I believe such discussions will take place, and the Prime Minister will know from all the comments that have been made, certainly in this chamber, that we very much support measures to ensure that Ottawa will be a bilingual capital.

It would be impossible to speculate on the details at this time. However, the message has clearly been given. It is being taken seriously by the Government of Canada and the Prime Minister. One hopes that it will be taken seriously by the Premier of Ontario.

Hon. Marcel Prud'homme: Honourable senators, Queen Victoria decided that Ottawa should be the capital of Canada after considerable deliberation. Montreal, Kingston and Toronto were all previous capitals and it did not work in any of those places. Ottawa was chosen.

I agree with Senator Nolin that the addition of Hull to Ottawa would have been preferred, but nonetheless, Ottawa is the capital of Canada. I may disagree slightly with my colleague, in that the federal government should give some money or incentive. However, if the Government of Ontario cannot realize it, I should hope that the people of Ottawa would realize that they are not just a city, but that they populate the capital of all of Canada and, as such, they should reflect the ideals for which Canada stands. I am asking that Ottawa reflect an ideal.

[Translation]

I am Canadien français du Québec.

[English]

Do not translate that as "French-Canadian" of Quebec. I am Canadien français du Québec, and I say that Ottawa is my federal capital.

Therefore, I say that the federal government should remind the people of Ottawa and the Government of Ontario that this place should truly reflect what it was meant to be, the capital of all Canada.

I like to be positive, so I suggest that the honourable Leader of the Government reflect, with all his colleagues, on proposing a motion to the Senate, to remind those who are responsible, that Ottawa should reflect what Canada is all about.

Would the Leader of the Government consider a simple resolution of the Senate to remind everyone that Ottawa should stand for all Canadians?

Senator Boudreau: Honourable senators, certainly we will reflect on that suggestion. I would also like to associate myself with the remarks the honourable senator made in his preamble. The honourable senator was much more eloquent on the subject than I could be, but it certainly is a matter of grave importance to all of us.

TRANSPORT

TAKEOVER OF CANADIAN AIRLINES BY AIR CANADA— REGULATION OF POSSIBLE MONOPOLY IN AIR PASSENGER INDUSTRY—GOVERNMENT POLICY

Hon. J. Michael Forrestall: Honourable senators, I have two or three questions regarding Air Canada and the merger with Canadian Airlines and Air Canada's most recent action. Air Canada has now extended, as we all know, to December 23, the deadline for the turnover and final settlement of the shares and whatnot. While Air Canada did not specify what these problems are in any detail, it did suggest that it would seek regulatory consent, as well as clarification respecting the terms of any new proposed legislation or policy.

Do I take from those general comments that something has been proposed, that the matter has been discussed with Air Canada's officials and that we are awaiting further examination of it?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I read in *The Globe and Mail* of the delay and the reasons that were given for the delay, and of course, I believe them to be accurate.

Senator Forrestall: That is because it is a CP story.

Senator Boudreau: The Transport Committee of the House of Commons has tabled their report.

Senator Kinsella: They did not deal with section 47, though.

Senator Boudreau: The Senate Transport and Communications report will, no doubt, be tabled in the very near future. Both reports may provide some assistance and direction with respect to specific air transportation policy. I am aware of the reason for the delay in the Air Canada offer. The only information I have at the moment is what I read in *The Globe and Mail*.

I would say, however, that the very clear enunciation of the principles upon which the Minister of Transport and the Government of Canada will act have already been spelled out. Air Canada must take these principles into account in any future arrangements.

AIR CANADA—INCREASE IN AIR FARES

Hon. J. Michael Forrestall: Honourable senators, we have seen Air Canada take its second step. Its first one was a desperate slap in the face to the Government of Canada and to most reasonable Canadians when it suggested that if the government tries to shackle it in any way it will withdraw its offer and the whole merger will collapse.

There is something now afoot in discussions between the Government of Canada and Air Canada having to do with costing fare structures. Because of hikes in oil, we just had an across-the-board increase in airfares of 3 per cent, an absolute bloody rip-off. They always go up, and never come down. No one seems to know why they cannot come down.

• (1410)

Are there ongoing discussions between the Government of Canada and Air Canada with respect to a regulatory process that would justify taking every slot, eliminating competition, and running roughshod over the Canadian traveller by charging an additional 3 per cent?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not aware of what, if any, discussions are ongoing. However, should Air Canada be successful in their approach, they are aware that they will have to accommodate the principles clearly enunciated by the Minister of Transport. The interests of the Canadian public, the small communities throughout our country, and the air traffic consumer will be principal in any discussions with Air Canada.

Senator Forrestall: Honourable senators, can the Leader of the Government in the Senate tell us whether Air Canada will be asked to roll back the 3 per cent increase until a decent period of time has passed?

Senator Boudreau: Honourable senators, I do not see it as my role to defend the national air carrier. However, we are informed that the increase is due to an increase in the cost of fuel, which I believe has gone up 100 per cent over the last number of

months. If fuel prices come down, we will watch to see whether fares decline as well.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL—OPPOSITION FROM GOVERNMENT OF ALBERTA

Hon. Douglas Roche: Honourable senators, my question is directed to the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology. The chairman referred to a letter of December 7 sent to him by two ministers of the Government of Alberta — Shirley McClellan, Minister of International and Intergovernmental Relations, and Walter Paszkowski, Minister of Municipal Affairs — expressing opposition to Bill C-6, the protection of personal information bill.

In this widely circulated letter, which is the second communication from the Alberta government, Alberta is seeking amendments to the bill to strike out those clauses that intrude upon the jurisdiction of provinces, and other points.

In light of the strong representation made by the Government of Alberta on the jurisdictional question, what is the chairman's response to Alberta's statement that, if the bill is passed, Alberta may be forced to consider a constitutional challenge to preserve its authority under the Constitution?

Hon. Michael Kirby: Honourable senators, I will deal with the last question first. Although some may hold the view that the bill is unconstitutional, including the Government of Alberta, the constitutional expertise available to the committee, and indeed to the government, is strongly of the view that this bill will withstand any constitutional challenge.

The first question is a little more complicated in that this bill will not apply to intraprovincial activities, provided that the province has a bill substantially similar to the federal law. It would be difficult for business to be subject to two different schemes, which would be the case if a province were to pass privacy legislation substantially similar to Bill C-6. That is obviously a legitimate point of view and that is the rationale for the clause in the federal bill stating that if a province passes substantially similar privacy legislation, the federal bill will not apply in that specific area.

That leaves the question of whether the draft Alberta bill on health care legislation, for example, is substantially similar.

The Hon. the Speaker: Honourable senators, questions to chairmen of committees must not be on the subject matter before the committee but purely on the activities of the committee. Questions regarding the subject matter before committees are not in order.

Senator Roche: Honourable senators, in light of these difficulties, is there a reason the Alberta government was not called to testify before the committee to make clear its position, given that it originally sent a letter on October 15, which has now been virtually repeated?

Senator Kirby: Honourable senators, I can confirm this tomorrow, but I understand that several provinces that sent us letters — notably Alberta and Ontario — were asked whether they wanted to appear. Ontario sent officials and their Assistant Deputy Minister of Health. The minister did not appear.

It is my understanding, subject to confirmation by the committee clerk, that the Alberta government was asked whether they wanted to appear, and they said that they were content to have their letter be their testimony, rather than appearing in person.

TRANSPORT

AIR CANADA—INCREASE IN AIR FARES

Hon. Donald H. Oliver: Honourable senators, my question is about Air Canada and the increase in air fares. The question has been asked and answered in part, but I should like to direct a supplementary question to the Leader of the Government in the Senate.

In today's *National Post*, Laura Cooke, a spokesperson for Air Canada, is quoted as saying, in relation to the increased air fares, that tickets to the United States and other international destinations were exempted and that the fares did not increase for competitive reasons.

Therefore, if we have a monopoly in Canada with no competition for Air Canada, will we have continued increases in air fares?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I can neither confirm nor deny the information brought forward by Senator Oliver. However, I will seek further information and respond as quickly as possible.

Senator Oliver: Does the minister not agree that it is shocking that the Canadian airline will increase domestic fares but not international fares?

Senator Boudreau: Honourable senators, it is surprising, to say the least, and is an issue worthy of further attention.

HERITAGE

STATUS OF HOLOCAUST MEMORIAL MUSEUM

Hon. Colin Kenny: Honourable senators, I gave notice last week of the question I am about to ask. I have been approached by groups concerned about the status of the Holocaust memorial museum.

Could the Leader of the Government in the Senate provide us with an update on the status of that museum? Does the government remain committed to the principle of establishing such a museum? If so, when can we expect to see some activity on this file?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the commemoration of that horrendous event in the history of humanity is a matter of great importance. Unfortunately, I cannot comment on it in detail today. With apologies to the honourable senator, perhaps I can do so as early as tomorrow.

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

THIRD READING—MOTION IN AMENDMENT—DEBATE ADJOURNED

Hon. Michael Kirby moved the third reading of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, as amended.

• (1420)

Hon. Lowell Murray: Honourable senators, I indicated to you yesterday that I intended to propose an amendment at the third reading stage of this bill. Perhaps it would be a good idea for me to read the amendment and then I will speak to it.

I move, seconded by Honourable Senator Doody:

That Bill C-6 be not now read a third time but that it be amended in clause 7 on page 7 by deleting lines 16 to 22, and by renumbering paragraphs (h.1) and (h.2) as paragraphs (h) and (h.1), and any cross-references thereto revised accordingly.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Senator Murray: How much time do I have to speak?

The Hon. the Speaker: As you are the first speaker at third reading stage of the bill, you have 45 minutes. On the other hand, I must point out that there is an order of the house that the Senate will rise at 3:30.

Senator Murray: Thank you, Your Honour.

Honourable senators, I refer you to clause 7 (1) which says:

For the purpose of clause 4.3 of Schedule I, and despite the note that accompanies that clause, an organization may collect personal information without the knowledge or consent of an individual only if...

There follows a whole list of mostly valid circumstances under which personal information collected about you by a business in the course of its commercial activity could be disclosed. Those valid circumstances include: for the purpose of collecting a debt owed by the individual to the organization; if the information was required to comply with a subpoena or a warrant; if there was a suspicion that the information related to national security, the defence of Canada or the conduct of international affairs; if the disclosure was required for the purpose of enforcing any law of Canada; if the disclosure was made to a person who needs the information because of an emergency that threatens the life, health or security of an individual; and so on.

These are quite valid reasons and any reasonable person would agree that they are sufficient to justify the disclosure of personal information collected for commercial purposes. However, we then move into several rather more dubious circumstances that are outlined in the bill.

Before I come to the paragraph that I have moved to delete, I want to recite two of the dubious circumstances. One is contained in subparagraph (f) where it would be legal to disclose personal information without the consent of the person about whom it was collected:

...for statistical or scholarly study or research, purposes that cannot be achieved without disclosing the information, it is impracticable to obtain consent and the organization informs the Commissioner of the disclosure before the information is disclosed.

There is nothing said here whether the commissioner can halt the process or do anything about it. His right in this subparagraph is simply to be informed when information about an individual collected for commercial reasons will be released "for statistical, or scholarly study..."

Subparagraph (g) makes it legal to disclose personal information collected by a business if it is:

...made to an institution whose functions include the conservation of records of historic or archival importance, and the disclosure is made for the importance of such conservation.

This is personal information that is collected about you, or about any individual, by business firms in the course of their activity — for example, your mortgage information, your credit card information, and your pharmaceutical record. It says here that that information on you should be disclosed "for statistical, or scholarly study" or in subparagraph (g) for "historic or archival importance".

I should like to deal with this issue en passant. This means open season on prominent people. Be very clear on what this is all about. In most cases this is not about an ordinary citizen. This is a right to get at the personal business of people who are prominent, whether they be in politics, the arts, or whatever. This will allow open season on them.

There may be some reluctance on the part of honourable senators to take on the vested interests in the archival community, in journalism, and people engaged in statistical or scholarly study. I think it is about time we drew the line. Prominent people have as much right as anybody else to privacy.

Under subparagraphs (f) and (g), these people will still be alive to object. They will be able, one assumes, to go to the commissioner or the courts, or have some legal recourse, to protect their personal and private information.

The paragraph on which I have concentrated, and that I would like to see deleted, is the provision under subparagraph (h) that personal information can be released if the disclosure is:

(h) made after the earlier of

(i) one hundred years after the record containing the information was created, and

(ii) twenty years after the death of the individual whom the information is about;

What is the principled justification for a provision of that kind in this bill? In the briefing book that was given to members of the committee by the government, the background of this clause is set out as follows:

The *Privacy Act* deals with this issue by defining personal information of a person who has been deceased for twenty years as not being personal information for the purposes of the *Act*. The approach in this legislation is more restrictive, permitting disclosure but not removing it from the ambit of the legislation.

It is true that the *Privacy Act* passed a few years ago protects the privacy of individuals with respect to personal information about themselves held by a government institution. Indeed, it does exempt from its protections information about an individual who has been dead for more than 20 years.

• (1430)

As I said on several other occasions, there may be good public policy reasons for disclosing information about individuals that is held by governments after 20 years, or sending the information to the archives, but that is not the bill we are debating today. We are debating a bill concerning personal information collected in the private business sector about people and whether there should be a provision of that kind.

When the officials were before the committee, I asked Stephanie Perrin, Director, Privacy Policy, Electronic Commerce Task Force, Department of Industry, about this, and I said:

Am I correct in my reading of this section and subsection that personal information collected by an organization — your bank, your credit card company, your mortgage company, your insurance company, whatever — could be disclosed 20 years after the death of the person about whom it was collected? Am I correct in my reading of that?

Ms Perrin: That says you need not seek the consent of the individual for that disclosure. However, all disclosures must be justified with the purpose clause, so there must be a legitimate purpose for the disclosure of that information. There are still a number of tests. This merely says that you need not seek consent to disclose.

A little later, she said:

You must state your purposes, if you are an organization, for the collection, use and disclosure of personal information.

I went back to the bill to see what she was talking about. I came to clause 5, which is really not very helpful at all because it just refers to Schedule 1 and states about Schedule 1 that:

The word “should”, when used in Schedule 1, indicates a recommendation and does not impose an obligation.

I then went to Schedule 1, the so-called purpose clause. The purpose clause has mostly to do with the collection of information, not with its disclosure. That clause states that it should be read in conjunction with clause 4.5 of Schedule 1, entitled “Limiting Use, Disclosure and Retention.” Thus, I went to that clause, and what did I find? I found two or three paragraphs stating that organizations “should” develop guidelines and implement procedures with respect to the retention of personal information.

I found another one which states:

Personal information that is no longer required to fulfil the identified purposes should be destroyed, erased, or made anonymous.

All that is not much help in the face of a provision that provides that it would be legal to disclose personal information that is collected for commercial reasons 20 years after you have died.

Then Ms Perrin and I got right down to the nitty-gritty, and I want honourable senators to listen to this. I asked her about the justification. She said:

This clause is basically for historical purposes and archives. You obviously have not heard yet from the archivist and historian community.

Why would we need to? Their interests have been taken care of.

She continued:

They feel very strongly that if we do not have a clause that permits private organizations, businesses and institutions to disclose information to historical institutions for the preservation of historical records, that much valuable information will be destroyed. There are provisions in the bill to retain the information only as long as is necessary for the purposes for which it was gathered, so there is a strong push on institutions to destroy information that is no longer necessary. An insurance company, for instance, if they are not doing business with you and there is no longer a need, would be strongly impelled by the schedule to dispose of that information. Nevertheless, some information is of historical interest. An example that has been used in letters to our minister on this very clause is the Hudson's Bay archives that were recently donated.

Cut up your Bay credit card, honourable senators.

Those were company records. If you put in a clause which says that if you no longer have a use for the information, the information must be destroyed or deleted, then who will keep these records? There is still a threshold there for the bank and the insurance company to prove that their purpose is indeed the retention of historically interesting information.

She tries to make a principled justification, but I do not think that is acceptable. Let me come back to that.

We are dealing with an individual's personal business and personal information that was collected for commercial reasons. It is suggested that there might be good historical reasons for putting the business of Jean Chrétien, or his successor or his predecessors, whether it is credit card information, mortgage information or pharmaceutical records, into an archive somewhere. I say it is none of our business. I say that this kind of personal information is none of anybody's business. Further, I say that we must understand the mentality, and I say that with some respect. I hope I will always have some respect for learning and for science, including the social sciences, but we must understand the mentality of social scientists, archivists, historians and all the rest. They would have us save every last scrap of paper. They would have us preserve every last jot and tittle of information because they believe it is all relevant, no matter how personal or intimate. They will never agree that any scrap of it should be destroyed, especially if it deals with someone who may be considered of some importance, either now or in history. They insist that it is theirs. I say it is not theirs. I say it belongs to the individuals, and it should be given the same protection in this law that personal information generally is given.

I must say also that some of the witnesses from the privacy advocacy groups and the civil libertarians came conspicuously ill-prepared on this point. I do not think they had focused on it. I asked a man by the name of Murray Mollard, Policy Director of the British Columbia Civil Liberties Association, what he thought about it. He said:

I do not think we have an official position on your question. This may or may not have to do somewhat with some of the census debate that has been ongoing.

It has nothing to do with the census. We are talking about commercial matters.

He then said:

My intuitive response is that 20 years is not a long time. Why it has been chosen as 20 years, I do not know.

Then a bit later he said:

Perhaps my colleagues have something to add. I do not understand the justification for that. The figure of 20 years strikes me as being not a long time.

I alluded yesterday to the testimony of a lawyer by the name of Ian Lawson from British Columbia, who is an expert in privacy law, and a relative of our colleague Senator Kelly, I may say en passant. He said:

I may live to regret saying this, but the right of privacy is usually assigned to a living person. I am speaking about how we consider the interests at stake. In fact, when it comes to litigating and to enforcing rights of privacy, I wonder whether it would be possible at all for a person's interest to be at stake if that person is deceased.

Think about it, honourable senators.

Then we heard from Ms Valerie Steeves, Director of the Technology Project, Centre for Law and Social Change, Carleton University. She said:

I differ with Mr. Lawson in this regard. There are all sorts of ramifications for the survivors of that individual as well. However, the sensitivity of personal information declines over time.

Perhaps it does, but that is no justification for releasing it, in my opinion.

She went on to say:

It is a question of the appropriate time limit. I am not uncomfortable with a time limit. It may be that 20 years is not an appropriate time limit.

She is not taking a position on principle. To her, it is a question of the time limit.

• (1440)

Fortunately, the Commissioner of Privacy, Mr. Phillips, was much more forthcoming. I remind you that Mr. Phillips was just about the most aggressive and robust supporter of this bill before the committee. I asked him to justify this provision. I will read you the exchange. I said:

...I invite you to offer us a principle justification for the provision in this bill that personal information collected for commercial purposes can be legally disclosed 20 years after the death of the person in respect of whom it was collected. Justify that for us.

Mr. Phillips: I will not try. That provision is the same one found in the existing Privacy Act. It is written by people who obviously believe that privacy rights expire at the grave.

Senator Murray: We had a lawyer tell us that today.

Mr. Phillips: If that is so and if that is an accepted principle in law, I think it is an unhappy one. I take a different view. I have learned in my experiences as a Privacy Commissioner that many people are very concerned about personal information which may linger on after their death and what happens to it. We need only consider the example of the enormous lengths taken by many people regarding the security and inviolability of their personal papers post-mortem. The assumption that people do not have a privacy right simply because they are dead, in my opinion, is a very poor one.

This argument, as we both know, is coming up in another context. It is now in the Privacy Act that, 20 years after your death, personal information does not qualify.

Senator Murray: There is no reason to apply it to the commercial sector as this bill does, is there?

Mr. Phillips: I do not draw a distinction between any kind of information. It is what the owner thinks about it, senator. You are right. The question is why?

Finally, we had the minister before us, Mr. Manley, and I asked him the same question — whether he could offer us a principled justification. He answered:

I am told that the provision to which you have made reference is a standard archival rule. Any disclosure would still have to comply with the rest of the code. For example, the disclosure of the personal information must be made for the purposes for which it was collected.

The minister is obviously mistaken, or he did not understand my question. If the information is collected for reasons of your credit card application or your mortgage or your prescription at the pharmacy, that is one thing. We are talking about disclosing it for the purposes of the archives or for statistical reasons or for scholarly research or whatever it is. I do not think he quite understood the issue that I was raising.

Honourable senators, I have said on several occasions that I think the government and the Parliament that passes this bill can take some considerable pride in it. It does extend the protection of privacy law for personal information collected in the private commercial sector. However, a provision which allows disclosure 20 years after your death is, I think, a black mark on an otherwise excellent piece of legislation. No one has offered a principled defence of this provision, and I think it is indefensible.

We all know that individual privacy has been losing ground day by day and year by year. It has been losing ground to the forces of technology. It has been losing ground to the intrusiveness of some laws and regulations. It has been losing ground to the irresponsibility of a few players from the media. It has been losing ground to the otherwise valid and legitimate service of historians, archivists, journalists and the rest.

Whenever the issue arises, we are told that we must strike a balance between the right to privacy on the one hand and the right to information and the rights of a free press and the rights of a free state on the other. Whenever the issue is joined, that balance is shifted in favour of those other concerns and against the privacy of the individual. That has been the experience to date. That is the significance of the clause that I want to see eliminated from this bill. The right to collect and disseminate information should not trump every other right in the book.

We can let this clause go through and hope that it will always be used responsibly and with respect for the apparently non-existent legal rights of people who have passed on, or we can draw the line now and protect, as we should, the privacy of those people with regard to purely personal information collected by their bankers, their mortgage firms, their pharmacists and what have you. I hope that we will draw the line and strike this clause from the bill.

The Hon. the Speaker: Honourable senators, I must inform you that if Honourable Senator Kirby speaks now, his speech would have the effect of closing debate.

Senator Kirby: Honourable senators, I was about to speak to the amendment, but in any event I would have adjourned the debate. As I understand the procedure, it is the amendment, not the third reading motion, that is on the floor.

The Hon. the Speaker: You may speak on the amendment.

Senator Kirby: Honourable senators, given the usual entertainment value, thoughtfulness and cogency of Senator

Murray's argument, I would not want to reply extemporaneously this afternoon but would want to reply tomorrow afternoon. I move the adjournment of the debate.

Hon. Douglas Roche: Honourable senators, I was seeking the floor a moment ago to ask permission to ask a question of Senator Murray. Is that agreeable?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Roche: This question concerns Senator Murray's excellent address, for which I thank him. I go back to the point I raised with Senator Kirby in Question Period concerning the extraordinary communication received today written by two ministers of the Government of Alberta, a letter dated yesterday. That letter refers to and enlarges upon an earlier letter the Alberta government sent on November 16 to the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology. The letter of yesterday was circulated widely on Parliament Hill. Virtually every person of any importance on Parliament Hill has received a copy of this letter. It is quite a strong letter of protest against Bill C-6. I will not read the letter, although I am prepared to make it available. I do not have it in both languages, but I am prepared to make it available if any senator has not yet received it.

In short, Alberta is urging that this bill be reconsidered and that there be stricken from the bill those sections that intrude upon the jurisdiction of provinces to enable small- and medium-sized businesses to adequately prepare for the legislation and to enable a consultative process to be renewed to achieve the goal of privacy protection. That, in essence, is what Alberta is seeking.

The normal process is to appear before a committee while it is reviewing the bill in question. I do not want to get into any protracted discussion here about why Alberta did or did not appear before the committee. It appears that they might have assumed that the letter of November 16 was being taken into consideration by the committee, and, indeed, it may well have been. Does the Honourable Senator Murray feel that the amendment that he has just introduced — and, I listened carefully as he outlined the limiting quality of the amendment — respond in an adequate manner to the points raised by the Government of Alberta? If not, what should we do about it at this stage? We have a province that has a key interest in this bill, such that their views should not be overridden by not giving sufficient consideration to them before this bill is passed by the Senate for a third time.

• (1450)

Senator Murray: Honourable senators, I received the same letter that Senator Roche received. However, I do not have it in front of me. First, I do not believe that the Government of Alberta focused on the particular clause that I seek to have deleted from the bill.

Second, I should tell my friend that, during the second reading debate, I expressed a layman's opinion, for what it is worth, that the bill represents a valid and legitimate exercise of the federal government's trade and commerce power.

Third, a more authoritative view on that matter was expressed before the committee the other day, by Mr. Tassé, a former deputy minister of justice who is of the view that the bill is *intra vires* the federal Parliament.

Fourth, there is in the bill a provision that the bill will not apply to intraprovincial commerce in any province that, within the next three years, has passed a privacy bill that is "substantially similar".

Fifth, while I am aware that all the attorneys general of Canada, some considerable time ago, asked that the bill be withdrawn for the reasons outlined by the Government of Alberta, that has not been done. The Government of Ontario came before the committee to express their reservations about various aspects of the bill, but the officials declined to express a view or to state that there is an Ontario view as to the constitutionality of the bill. When asked specifically about this, they simply said it was a matter for debate.

One witness before the committee said that it is inevitable that there will be a constitutional challenge to this bill, and, I suppose, he will probably be proven right.

Senator Roche: I thank Senator Murray for that reply. He referred to an approach to resolving this difficulty through provincial legislation that would be substantially similar to the federal legislation. That is one of the points that Alberta makes in the letter, namely, that because "substantially similar" is not defined in the federal legislation, it is too wide for relevant, responding legislation to be made.

I ask Senator Murray again: Is there any way in which, at this stage, we might be able to accommodate the deep concerns expressed by Alberta and take positive action?

Senator Murray: Honourable senators, I do not disagree with the point that the Government of Alberta has made about the fact that the phrase "substantially similar" could have a rather broad meaning. However, I should point out that the only province that has a law which is comparable is Quebec. The government, through the Minister of Industry, has already indicated that, so far as the government is concerned, the Quebec law is substantially similar. As for the others, three years is provided for consultation and discussion. I understand that Alberta is drafting a bill, as we speak. They are not left simply to guesswork. They can and do discuss these matters extensively with the federal government. My recollection, from another life, is that Alberta has extraordinarily able public service advisers in the field of federal-provincial relations. I would think that it would not be beyond imagination and goodwill for Alberta to draft and for Ottawa to accommodate a bill tailored to Alberta's needs, but substantially similar to the federal legislation.

On motion of Senator Kirby, debate adjourned.

CRIMINAL RECORDS ACT

BILL TO AMEND—THIRD READING

Hon. Hon. Joan Fraser moved the third reading of Bill C-7, to amend the Criminal Records Act and to amend another Act in consequence, as amended.

She said: Honourable senators, we are by now quite familiar with the content of Bill C-7, which is an important bill. It was before us in the last session and it is again before us. It has benefited in the interim tremendously by the work of the Standing Senate Committee on Legal and Constitutional Affairs, which found some serious flaws in the original version of the bill. The Solicitor General responded with admirable openness and rapidity in accommodating amendments to improve the bill. As it now stands, I think it is a very valuable addition to Canadian law.

This bill will essentially help to protect Canadian children and other vulnerable persons from finding themselves in positions where they might be prayed upon by sexual offenders. It will not guarantee however — nothing will ever guarantee — that sexual offenders will never be able to pray upon such people, but this bill is one contribution to the effort to protect those people who need protection. The form of protection that it provides is that it will allow organizations to which pardoned sexual offenders apply for employment to screen the criminal records system to determine whether or not these persons do have a criminal record for a sexual offence.

Honourable senators, it is important to note that there will be major safe guards for the pardon-holder's rights. We take the integrity of the pardon system very seriously. Access to the offender's information will be limited to authorized police officers and to law enforcement personnel. The applicant for the position will have to sign a consent form, even to check whether a notation exists in the general criminal records section. That consent form will point out that this person is in the section that is normally sealed that refers to pardoned offenders. Discovery of that special notation will be possible only by a special code is entered into the computer terminal. If the applicant does give consent, the authority of the Solicitor General will still be needed to unseal the record and notify the employing organization of a criminal record and the applicant's consent would, again, have to be given for that disclosure. These are serious safeguards.

In addition, thanks to the work of the Standing Senate Committee on Legal and Constitutional Affairs, the bill specifies now that it applies only to persons pardoned for sexual offences. Pardons for all other offences will remain sealed. Definitions which are now in the bill have been greatly improved. Definitions of "children" and "vulnerable persons" are now in the bill.

Given that this bill has been supported by all parties in the other place, by provincial and territorial ministers of justice and law enforcement authorities throughout Canada, I believe it merits our support.

Motion agreed to and bill, as amended, read third time and passed.

• (1500)

THE ESTIMATES, 1999-2000

REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (A) ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on National Finance (Supplementary Estimates "A", 1999-2000), presented in the Senate on December 2, 1999.

Hon. Anne C. Cools, for Senator Murray, moved the adoption of the report.

She said: Honourable senators, I should like to speak briefly to this most important motion and, in essence, to the second report of our National Finance Committee, being the report on the consideration of Supplementary Estimates (A), 1999-2000.

Honourable senators will find that this report is thorough and contains significant detail on our committee's deliberations. I would say that this report is the committee's best commendation. The National Finance Committee is the Estimates committee of the Senate, that committee which assists the Senate in fulfilling its parliamentary obligations in respect of the Senate's examination of the government's proposed and the revised proposed expenditures.

The committee met on Tuesday, November 23, 1999, to hear from Treasury Board officials Mr. Richard Neville and Mr. Andrew Lieff. These two gentlemen were most forthcoming in their testimony and answered senators' questions with enormous care and attention.

I should like also to note for honourable senators that this particular meeting was the last appearance of Mr. Richard Neville. Mr. Neville informed us that he is moving on from his present position to assume the duties of the deputy controller general. He also informed us that he would be assuming these new duties around the beginning of December. I believe that I speak for all senators on the committee and for all senators in the chamber when I express our gratitude and our appreciation for his contributions and assistance to our committee during these past years, and I think I speak for all senators when I wish him success in the future.

Honourable senators, I should like also to take the opportunity to thank all the honourable members of the committee for what I consider to be their diligent attention to Supplementary Estimates (A), and I thank them for all their hard work. I should

like also to thank Senator Lowell Murray for his steady, balanced and practised hand in guiding the committee during its deliberations.

I should like also to take the opportunity to welcome to the committee two new senators — Senator Finnerty and Senator Finestone. Senator Finestone informs me that she had not intended to stay on that committee but, since she attended her first meeting, she concluded that it was a good committee on which to serve.

Having said that, honourable senators, I recommend this report for your adoption.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[Translation]

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(*Honourable Senator Lavoie-Roux*)

Hon. Rose-Marie Losier-Cool: Honourable senators, with leave of the Senate, I wish to speak to the second reading stage of Bill S-2, standing in the name of Senator Lavoie-Roux.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Losier-Cool: Honourable senators, I should like to begin by congratulating my colleague Senator Carstairs on the presentation of Bill S-2, entitled An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.

The health demographic is, without a doubt, constantly changing. Since 1997, 40 per cent of Canadians under the age of 30 are caregivers to at least one family member. In Canada at this time, the average time an adult will spend on caring for a relative is longer than the time spent on child-rearing.

Given our constantly ageing population, honourable senators, it is time for an initiative such as this bill to be undertaken in Canada.

Today I would like to call your attention to Clause 6 of this bill, which is aimed at coordinating, with provincial authorities and associations of health care professionals, the establishment of national guidelines for the withholding and withdrawal of life-sustaining medical treatments, for the controlling of pain, and for palliative care; and at promoting and encouraging public education regarding the controlling of pain by medical means and increasing the training of health care professionals in controlling pain and in palliative care.

Honourable senators, it is the duty of the federal government to establish standards on the quality of palliative care, as well as accessibility for all Canadians requiring such care. Palliative care should be integrated with other health services, and, ideally, should be more or less the same from one region to another.

As Dr. James McGregor of the Ontario Palliative Care Association pointed out to the Special Senate Committee on Euthanasia and Assisted Suicide:

It is society's responsibility through government, health care planners, professional organizations, and health professions to provide the resources to ensure a system of intensive caring for dying patients and their families. This necessitates the development of the field of palliative care to ensure that the appropriate expertise is widely and readily available as well as accessible to all... It is unfortunate that Canadians continue to die in pain because this expertise is not available to them.

Honourable senators, the establishment of national palliative care standards would meet the needs of the sickest members of our society. I wish to underscore the importance of Senator Carstairs' initiative, which would promote a comprehensive approach and would make palliative care services effective and accessible throughout Canada.

The purpose of palliative care is to address not just the physical needs, but also the psychological, social, cultural, emotional and spiritual needs of individuals and their families. Palliative care helps the terminally ill live out their remaining days in comfort and dignity. It is invaluable at the end of people's lives and in the earlier stages of illness.

[English]

A *Globe and Mail* article published on December 7, 1999 stated that four out of five Canadians believe home care should be a free universal health care program.

• (1510)

The poll also stated that one-quarter of patients already pay significant expenses and that one in nine patients needing help say that they have no home care because they cannot afford it. Most respondents to this poll said that the level of care fell short because of government-imposed caps on the number of paid care hours allowed and because they could not afford supplementary help.

[Translation]

That having been said, we should develop quality palliative care that meets people's needs and make it as widely available as possible. I should like to cite Dr. Ferguson, chief of the New Brunswick extra-mural hospital program, in order to illustrate the need to institutionalize palliative care as part of health care in Canada. He said:

In many provinces, homecare has been developed more or less as a project or program. With us [in New Brunswick], it is part of the system. We like to think that we have a different approach to it, and we are encouraging it to be used more effectively. That is our objective, at any rate.

I am proud that my province of New Brunswick is a leader in the development of palliative care in Canada.

I hope that, with the support of the Senate and of the House of Commons, we will be able to adopt such standards Canada-wide.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this item will stand in the name of Senator Lavoie-Roux.

[English]

CANADIAN DISTRICT OF THE MORAVIAN CHURCH OF AMERICA

PRIVATE BILL TO AMEND ACT OF INCORPORATION— THIRD READING

Hon. Nicholas W. Taylor moved the third reading of Bill S-14, to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America.—(*Honourable Senator Corbin*)

Motion agreed to and bill read third time and passed.

BUSINESS OF THE SENATE

POINT OF ORDER—SPEAKER'S RULING

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, before we move to the adjournment motion, yesterday I raised a point of order with Senator Kinsella regarding the acceptability of a committee report being presented by a member of a committee who, it appears, was not authorized to do so on behalf of the committee. I understood that His Honour would be ruling on that because the Foreign Affairs Committee has already called a meeting to discuss the matter contained in that report. I want to ensure that the issue is settled before that committee gets involved in the study of a report that has been sent to it.

The Hon. the Speaker: Honourable senators, actions within committees are outside of my responsibility. What committees do is up to committees. However, insofar as reporting, I refer you to rule 97(1), which states:

A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

When a report is presented, I have no authority to question whether the senator presenting has been designated. I must depend upon the committee chairman to have done that.

Senator Lynch-Staunton: The exchange yesterday with Senator Tkachuk, the deputy chairman, revealed that Senator Hervieux-Payette was not designated by the committee to present the report.

Hon. Leo E. Kolber: Honourable senators, I was to present the report last week but then was told to wait. I could have done it today, but not yesterday. The desire was to have it done yesterday. Therefore, I delegated, as I believe is my right, Senator Hervieux-Payette to do so.

Senator Lynch-Staunton: The rule is quite clear. It is not the chairman who delegates, but the committee. His Honour just quoted rule 97(1).

The Hon. the Speaker: The rule states that the designation is made by the chairman. Again, it reads:

A report from a select committee shall be presented by the chairman of the committee or by a Senator designated by the chairman.

The chairman has said that he gave his authorization, and I have no authority to go behind that.

Senator Lynch-Staunton: Honourable senators, I do not wish to delay the study of this bill. I apologize to Senator Kolber for suggesting that his committee had perhaps not proceeded properly.

The second question raised was how a report could be transferred, during Routine Proceedings, from this chamber to another committee without the chamber having any say in the matter.

If senators would prefer that I be entertained by the Speaker outside of these deliberations in order that we can proceed to other work at 3:30, I would be happy to ask Senator Hays to proceed with the adjournment motion. However, I feel it is important for all honourable senators to know exactly the procedure that is being followed and an explanation for it when we show, like I do, some confusion over it.

• (1520)

The Hon. the Speaker: If honourable senators are prepared to hear me, I will attempt to clarify the second element of the point of order.

This goes back to last week, and I read from the *Journals of the Senate* of November 24 respecting the Senate's decision with regard to Bill S-3:

The Bill was then read the second time.

The Honourable Senator Hays moved, seconded by the Honourable Senator Mercier, that the Bill be referred to the Standing Senate Committee on Banking, Trade and Commerce.

There was then some debate, following which:

With leave of the Senate and pursuant to Rule 30 the motion was modified to read as follows:

That the Bill be referred to the Standing Senate Committee on Banking, Trade and Commerce and to the Standing Senate Committee on Foreign Affairs.

The question being put on the motion as modified, it was adopted.

Honourable senators, I must say that this is a most unusual procedure. Certainly, to send one bill to two committees is not good practice. After all, how is that done?

Therefore, it was sent, as I understand it, to the Standing Senate Committee on Banking, Trade and Commerce. The committee studied the bill and no amendments were proposed.

The bill was reported back. I must refer you, then, to rule 97(4), which states:

When a committee reports a bill without amendment, such report shall stand adopted without any motion, and the Senator in charge of the bill shall move that it be read a third time on a future day.

However, there was an instruction from the Senate, which I have just read to honourable senators, that that the bill was to be referred to the other committee. Thus, having been reported by one committee without amendment, I concluded that it should not then proceed to third reading because it still had to go to the other committee. That is what the Senate decided. There had to be a mechanism to move it to the other committee, and that is what was stated in the motion.

I do not know how else the report could have been handled in view of the decision of the Senate the previous week. I was locked in by the decision of the Senate to send the report to two committees. I do not know what other vehicle could have been used to achieve the decision of the Senate.

Senator Lynch-Staunton: Honourable senators, I do not argue with what happened. I only question how it happened. I would have been more comfortable had the report been tabled and, when third reading was called, the Senate would have decided, to be consistent with its decision, to then say, "No third reading. We have decided to send it to committee." I felt that the Speaker bypassed the Senate. To some, it may be technical and it may be petty, but I think it is important that we, as senators, continue to be masters of the direction of a bill or a report.

I appreciate the situation in which the government side has placed His Honour, since it was their decision to send the bill to two committees. Senator Hays clarified the situation on the second day. Whenever the government side suggests to send the same bill to two committees, honourable senators can be sure that we will be the first to object.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, since we have a few minutes before we adjourn, I should like to take advantage of this opportunity as the person responsible for this novel procedure, one which I believe has the potential of working very well, to say a few words about it. I have been criticized constructively by my colleagues, by His Honour and also by the other author, shall I say, of this procedure, although I do not think he will accept credit for it.

The point I wish to make is that this circumstance is unusual. However, the instruction given by the Senate was clear enough that the Speaker's interpretation of it is appropriate. The real issue is: When does the Senate deal with the reports? I believe that is where the potential confusion lies. The way in which we in this chamber attempted to deal with that question, at my suggestion, was with the wording that the bill be sent to the Standing Senate Committee on Banking, Trade and Commerce, which was done, and upon completion of their review, which occurred, that it be sent to the Standing Senate Committee on Foreign Affairs for further review.

What was not done was to say how the matter could be dealt with by the Senate so as to avoid procedural difficulty by having successive reports. I think the solution that came from His Honour was a good one. It was that the instruction be characterized as a special order of the Senate that was moved with leave on November 24 and, notwithstanding rule 97(4), the bill stands referred to Standing Senate Committee on Foreign Affairs. This follows exactly the instruction the Senate gave to the two committees charged with the responsibility to deal with the bill.

Accordingly, honourable senators, I feel that this process is working and that it will work. I appreciate the concerns of Senator Lynch-Staunton and others about this not being a good practice. However, it is one that we have tried. I am not sure we will ever try it again.

In any event, based on what I have said and what His Honour has provided to avoid the problems of dealing with it in this chamber, I believe the process will work.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to draw your attention to rule 101, which states:

The chairman of the committee shall sign or initial a printed copy of the bill on which the amendments are clearly written...

I cannot seem to find the rule, although I know it is the practice, that a bill that is reported without amendment is also signed. Indeed, yesterday, the bill arrived at the Table unsigned. We inquired about that, after which it was sent back to Senator Hervieux-Payette who signed it.

Does the principle of rule 101 that speaks to the chairman of the committee signing the bill apply also to a bill that is reported without amendment?

The Hon. the Speaker: In answer to the Honourable Senator Kinsella, I do not know at the moment if there is a rule which sets that out. My understanding is that the practice has been that the chairman of the committee signs the bill when it is deposited with the Table. I do not see the bills when they are presented. I am sure the Table checks to see if they are signed. If they are not, I am sure the Table contacts the chairman of the committee.

Senator Kinsella: The chairman was not here. Therefore, it was signed by another member of the committee.

Senator Kolber: Honourable senators, I will be happy to sign it.

Senator Hays: Senator Kinsella has noted what may be a deficiency. Senator Kolber's suggestion is a good one.

Senator Kinsella: My interest is to protect the rights of the minority in this place. Most of the chairmen of committees are senators on the government side. A few are on this side, as are the deputy chairmen. In the absence of the chairman, the deputy chairman of the committee should act in place of the chairman.

Senator Kolber: Rule 101 refers to a bill that has been amended.

Senator Lynch-Staunton: We want the government side simply to respect the minority.

The Hon. the Speaker: It might be useful if the Table were to clarify this matter and send a message to all committee clerks so that there is no confusion.

Now, I wish to address the point raised by the Honourable Senator Lynch-Staunton, who said that he would have preferred that the bill be called for third reading. If that were done, I think we would have been in contravention of the decision of the Senate, which was that the bill be sent to the two committees. When a bill is passed without amendment, there is no discussion. It must go immediately to third reading. Had that been done, we could not have sent this bill to the other committee, as the Senate had decided. That was the difficulty in which we found ourselves.

Honourable senators, pursuant to the order of the Senate, it being 3:30 p.m., I do now leave the Chair.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, December 8, 1999

	PAGE		PAGE
SENATORS' STATEMENTS			
In Vitro Maturation			
Senator Pépin	407	Senator Boudreau	411
		Air Canada—Increase in Air Fares. Senator Forrestall	412
		Senator Boudreau	412
Ontario			
Regional Restructuring Legislation—Proposal to Declare ttawa Officially Bilingual. Senator Milne	407	Social Affairs, Science and Technology	
		Personal Information Protection and Electronic Documents Bill— Opposition from Government of Alberta. Senator Roche	412
		Senator Kirby	412
<hr/>			
ROUTINE PROCEEDINGS			
Library of Parliament			
First Report of Standing Joint Committee Presented. Senator Robichaud	408	Transport	
		Air Canada—Increase in Air Fares. Senator Oliver	413
		Senator Boudreau	413
Agriculture and Forestry			
First Report of Committee Tabled. Senator Fairbairn	408	Heritage	
		Status of Holocaust Memorial Museum. Senator Kenny	413
		Senator Boudreau	413
<hr/>			
Newfoundland			
Changes to School System—Amendment to Term 17 of Constitution—First Report of Special Joint Committee Tabled. Senator Fairbairn	408	ORDERS OF THE DAY	
		Personal Information Protection and Electronic Documents Bill (Bill C-6)	
		Third Reading—Motion in Amendment—Debate Adjourned. Senator Kirby	413
		Senator Murray	413
		Senator Roche	417
<hr/>			
Official Languages			
First Report of Standing Joint Committee Presented. Senator Losier-Cool	408	Criminal Records Act (Bill C-7)	
		Bill to Amend—Third Reading. Senator Fraser	418
<hr/>			
QUESTION PERIOD			
Transport			
Fredericton Airport—Status of Negotiations to Turn Over to Local Airport Authority. Senator Robertson	409	The Estimates, 1999-2000	
Senator Boudreau	409	Report of National Finance Committee on Supplementary Estimates (A) Adopted. Senator Cools	419
Fredericton Airport—Inability of Runway System to Accommodate Certain Aircraft. Senator Kinsella	410	Medical Decisions Facilitation Bill (Bill S-2)	
Senator Boudreau	410	Second Reading—Debate Continued. Senator Losier-Cool	419
Intergovernmental Affairs			
Ontario—Regional Restructuring Legislation—Proposal to Declare Ottawa Unilingual English. Senator Gauthier	410	Canadian District of the Moravian Church of America (Bill S-14)	
Senator Boudreau	410	Private Bill to Amend Act of Incorporation— Third Reading. Senator Taylor	420
Senator Nolin	410	Business of the Senate	
Senator Prud'homme	411	Point of Order—Speaker's Ruling. Senator Lynch-Staunton	420
		The Hon. the Speaker	420
Transport			
Takeover of Canadian Airlines by Air Canada—Regulation of Possible Monopoly in Air Passenger Industry Government Policy. Senator Forrestall	411	Senator Kolber	421
		Senator Hays	422
		Senator Kinsella	422



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION •

36th PARLIAMENT •

VOLUME 138 •

NUMBER 19

OFFICIAL REPORT
(HANSARD)

Thursday, December 9, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, December 9, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

[English]

Prayers.

• (1410)

[Translation]

SENATORS' STATEMENTS

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—
PROPOSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL—
REFUSAL BY PREMIER

Hon. Jean-Robert Gauthier: Honourable senators, I am not surprised at the decision by the Ontario government of Mr. Harris to reject the recommendation of his advisor on municipal and regional restructuring. This is standard behaviour for Mr. Harris and company when francophone rights are involved.

For over 40 years, I have been dealing with this issue in education, health, social services and now municipal affairs. I have always been involved and I intend to continue to do my work. Let me tell you, the issue is far from resolved.

Yesterday, Mr. Harris said, according to the media, that he had done a lot for French Canadians in Ontario. What he is not saying is that, each time, every gain in the areas of education, health, and municipal affairs has been imposed on him either by the courts or by public opinion. He has come repeatedly to the federal government hat in hand for funds to pay for these changes.

Honourable senators, we will use whatever measures are necessary and at our disposal to get the Ontario government of Mr. Harris to change its opinion and position and make Ottawa, the country's capital, bilingual. Let us be positive, honourable senators, and let the new city administration decide how it will be bilingual.

Honourable senators, we will use incentives. We will recommend that he correct his affront to equity and justice and honour the equality of the two official languages in the country's capital city.

Mr. Harris is playing a dangerous game when he insults French Canadians, thereby handing certain people winning conditions.

Enough foolishness! Mr. Harris, we are not impressed!

FISHERIES AND OCEANS

VIABILITY OF WEST COAST SALMON FISHERY—NEED FOR
EMERGENCY HELP—HUNGER STRIKE BY DAN EDWARDS

Hon. Pat Carney: Honourable senators, this week, a man who is putting his life on the line to help the people of British Columbia's coastal communities was in my office asking for assistance from the federal government and the Senate. Dan Edwards, a fisherman from the West Coast of Vancouver Island, is on day 45 of a hunger strike to draw attention to our coastal communities that were economically and socially devastated by the collapse this year of the Fraser River sockeye runs.

Mr. Edwards met with Senator Ray Perrault, Senator Gerry Comeau and myself to describe his frustration. All Dan asks to get off the hunger strike is for the federal government to sit down at the negotiating table with the provincial government and the stakeholders and resolve a way to get assistance into the hands of the people in the communities who desperately need it. So far, federal funds are aimed at getting people to leave the fishery, not at helping fishermen struggling to stay afloat.

Honourable senators, there will be no viable West Coast fishery if all fishermen with the necessary expertise and experience are forced out of the fishery because of the buyback program. We need fishermen to have a viable fishery.

The Auditor General supports Dan's point. In his most recent report, he made consistent references to the need to support a viable fishery. He said:

The management challenge for the Department of Fisheries and Oceans is to conserve existing stocks and rebuild those that are at low levels, while maintaining the viability of the fisheries. It will have to adapt its management regime to the new realities and gain the acceptance and support of stakeholders if it is to be successful.

He also highlighted the need for:

...resolving consultation problems to improve stakeholder relations and move toward forming partnerships to share management responsibilities and offset costs.

That is what Dan Edwards is asking for.

So far, the federal government's consistent response to requests from the communities for help has been that the \$400-million program announced last year to cope with the coho crisis will address this year's sockeye problem as well. Yet, coast watchers consistently report that this money has yet to hit the ground and actually help anyone in need.

In the meantime, many coastal communities are in critical condition. Many aboriginal communities, for whom the salmon plays a profound role as food as well as a cultural and spiritual symbol, have no salmon for the winter. Since the EI system does not assist fishermen who have not been able to fish, native and non-native fishermen alike have no other recourse than welfare. This is a reality in communities where this year fishermen have invested, in some instances, tens of thousands of dollars in fishing gear and start-up costs for a fishery that never happened.

Dan represents a coalition called the Fraser River Sockeye Crisis Committee. This involves the coastal communities that are starving for lack of assistance. Dan has lost 50 pounds since the beginning of the hunger strike. He is physically weak but spiritually resolute. Senator Ray Perrault and I have urged Dan not to risk his life, but he is adamant that, until someone pays attention, he will not eat.

Surely, the federal government can sit down with the province and the stakeholders and work out a plan that will deliver emergency help to the people of B.C.'s communities.

The collapse of the Fraser River sockeye runs is a natural disaster. There are methods for dealing with natural disasters that effectively deliver assistance to those who are so profoundly affected by them. These were implemented in Ontario and Quebec after the ice storm. They were also put in place in New Brunswick in the fish farm virus outbreak of 1998.

My fear is that if anything happens to Dan Edwards, the situation in the communities, which is already desperate, will become volatile. We need a show of political will that will solve this problem for native and non-native communities before there is a human tragedy on the coast.

[Translation]

MÉDECINS DU MONDE

Hon. Marisa Ferretti Barth: Honourable senators, I draw your attention to an initiative by the Médecins du Monde organization to provide medical care to young street people in Montreal.

According to those who work with young street people, there are between 2,000 and 5,000 homeless young people in Montreal. These young people are not organized. Often, they do not have health cards. From experience, they know they will not be well received when they show up at the emergency department. So they are in poor health.

In January, Médecins du Monde set up a mobile team of doctors that will go to the young people where they are, that is, in the street.

I will close with a comment made by Dr. Réjean Thomas, the man behind this magnificent project, who told a journalist that what the organization wanted to do was to go after the problems faced by the poorest in rich countries.

This initiative should ease things for these young people, who live on the street and in misery. I invite all of you, honourable senators, to become aware of the problems of young street people in our society.

In Montreal, at our seniors' community centre near Radio-Canada on René-Lévesque Boulevard, we will begin on December 26 the first of a series of days providing shelter and food, without regard to age, to all street people in the city of Montreal. This initiative will work well, and we will be able to provide meals all weekend. People will be there to help these people on Saturday and Sunday, because there is nothing for these folks who are left on their own. We thought that, starting December 26, we would be able to help them each weekend for as long as we will be able to.

[English]

INTERNATIONAL DAY OF HUMAN RIGHTS

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to note that December 10 is designated as International Day of Human Rights. As we close out the millennium, we can look back with some pride, both in Canada and in a world context, that the United Nations and others have been able to develop human rights instruments, covenants and other mechanisms, and, further, to raise public awareness that all human beings are born free and equal in dignity and rights. However, it is regrettable that atrocities continue and that the most vulnerable in our society continue to be disproportionately in the category of those who lose their lives, dignity, safety and security.

The Universal Declaration of Human Rights is yet to be adhered to in a way that would give us cause for celebration. It is important for all Canadians to reflect on what we have personally done to contribute to the furtherance of the cause of human rights and to rededicate ourselves to putting human rights at the top of our personal and public agendas.

Parliamentarians have a high responsibility to ensure that Canada's words and actions, both at home and abroad, adhere to the declarations, covenants and other instruments that Canada has signed. We must not lapse into ad hoc scrutiny and we must not let political or economic factors override our adherence to fundamental human rights values that we hold so dear in this society.

As Parliamentarians, we must ensure that we do not fall into selective or random adherence of human rights and that we do not raise the issue of human rights only when prodded by interest groups or media attention. It should be nothing less than a constant and fundamental issue in all aspects of our work. Therefore, we must dedicate ourselves to practices and procedures that will support a constant, continuous and even-handed application of human rights.

● (1420)

I appeal again to the leadership in the Senate to immediately set up a human rights committee, as I placed by motion in this chamber at the last session. Such a committee would go a long way to discharging our duties to the countless millions who have lost their lives or those who have lost other fundamental freedoms.

While I know that no one committee or one group of Canadians can single-handedly change the fate of our fellow human beings, we in the Senate can make a difference, and the time to start is now.

FISHERIES AND OCEANS

CLOSURE OF FRASER RIVER SOCKEYE FISHERY—
PROGRAM TO REFUND SALMON LICENCE FEES—
HUNGER STRIKE BY DAN EDWARDS

Hon. Raymond J. Perrault: Honourable senators, I have been in contact with the Minister of Fisheries today, and I have also spoken with Mr. Dan Edwards, who is on a hunger strike. I have some information to bring to the Senate.

This afternoon, the Honourable Herb Dhaliwal, Minister of Fisheries and Oceans Canada, provided details about a special one-time program to refund salmon licence fees for all commercial salmon licence holders significantly affected by closures in the Fraser River sockeye salmon fishery in 1999. A draft press release states:

“Based on unusual circumstances in the 1999 salmon fishing season, Fisheries and Oceans Canada will refund licence fees for those commercial fishermen who faced significant financial impact by the Fraser River sockeye closures this summer,” Minister Dhaliwal said. “I have asked my officials to do everything possible to have these cheques to the licence holders before Christmas.”

“About two million dollars will be paid directly to approximately 1,600 licence holders or vessel owners of record,” said Mr. Dhaliwal.

Honourable senators, there is further information, but it would take too long to provide it to the Senate at this time. The government is acting to meet this particular challenge. Mr. Edwards is heartened by the fact that the minister may well be in direct contact with him this afternoon.

[Translation]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—
REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL—
POSITION OF THE FÉDÉRATION DES COMMUNAUTÉS
FRANCOPHONES ET ACADIENNE

Hon. Gerald J. Comeau: Honourable senators, I wish to share with you a letter addressed to the Honourable Tony Clement, Ontario's Minister of Municipal Affairs and Housing. It reads as follows:

Dear Sir,

I have learned through the media that your government decided not to give bilingual status to the new City of Ottawa, which will amalgamate 11 existing municipalities.

The Fédération des communautés francophones et acadienne du Canada wrote you a letter on December 7 summing up the arguments as to why Ottawa should be bilingual. There is no need for us to repeat ourselves. I share the principles and sentiments expressed by the federation.

As a francophone parliamentarian, it is very important for me to work in a city that respects and values my mother tongue. It is also essential that I be able to feel at home in my nation's capital.

I hope that the notion that Ottawa would become a unilingual English city is simply a misunderstanding on the part of journalists.

I ask for clarification.

Honourable senators, I urge you to support the principle expressed by the Fédération des communautés francophones et acadienne du Canada and the concept of respecting Canada's two official languages in the City of Ottawa.

[English]

REGIONAL RESTRUCTURING LEGISLATION—
REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL

Hon. Colin Kenny: Honourable senators, I rise today to comment on the language status of the Ottawa region. As a resident of Ottawa, as a senator from Ontario and as an anglophone, I am compelled to comment on the language issue of the amalgamated City of Ottawa, which will be born on January 1, 2001.

As it stands right now, Ottawa is officially bilingual. Our nation has two official languages and it is only natural that our country's capital should be bilingual, not only because there are francophones living in the region but because the region should reflect the character of the country as a whole.

Hon. Senators: Hear, hear!

Senator Kenny: Bilingualism is nothing new to the region of Ottawa. It is part of the history of this region and it should be guaranteed in the future of the region. Coincidentally, the amalgamated city, along with the City of Hull, will co-host the World Francophone Games in 2001. Indeed, with Ottawa-Hull functioning as a gateway between the provinces, it is only natural that Ottawa's bilingual status should be recognized at the provincial level.

Mr. Glen Shortliffe's report calls the region of Ottawa a unique tapestry and recommends that the new City of Ottawa be "legislatively designated a bilingual city with services to be provided in both official languages where warranted." While the province has implemented most of Mr. Shortliffe's advice, they have chosen to ignore this proposal. The people of Ottawa and the people of Canada want assurances and should be given assurances that Ottawa will be officially bilingual once the merger goes through.

Having the provincial government ignore this sensitive issue does not send a positive message to Franco-Ontarians or Canadians. This is not a municipal issue. As the first minister, Mr. Harris must recognize the importance of having Ottawa as a bilingual city. He must show leadership on this issue, make Ottawa bilingual and clear up any of the uncertainty.

CIVIL INTERNATIONAL SPACE STATION AGREEMENT IMPLEMENTATION BILL

REASONS FOR ABSTENTION DURING CLAUSE-BY-CLAUSE STUDY

Hon. Jeremiah S. Grafstein: Honourable senators, later this day the Foreign Affairs Committee will present a report on Bill C-4, a bill to implement an international agreement for cooperation on the international space station. I abstained from voting on that report at clause-by-clause consideration in committee. I owe the Senate an explanation for my abstention from voting on the report. My reasons are set out in the evidence of the committee on December 7, at page 10.

Some Hon. Senators: Oh, oh!

Senator Grafstein: Please let me finish, and then honourable senators can object.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this is a time for statements, not explanations on reports.

Senator Grafstein: Honourable senators, since I will not be afforded an opportunity to speak at report stage, I thought I would use Senators' Statements to indicate my reason for abstention.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I call your attention to some distinguished visitors in the gallery. We have with us the previous high commissioner for Kenya and now the peace envoy for Sudan, accompanied by Mr. Ernie Regehr. They are hosted by the Honourable Senator Wilson. Welcome to the Senate of Canada.

As well, we have with us a delegation of 10 Russian specialists, who represent the federal and selected regional governments of Russia and are practitioners in various components of the mortgage financing business. They have just completed a three-week training period here in our Canadian system of mortgage financing. Welcome to the Senate of Canada.

ROUTINE PROCEEDINGS

BUSINESS OF THE SENATE

A SENATOR'S GUIDE TO DISABILITY TABLED

Hon. Brenda M. Robertson: Honourable senators, I wish to table the small booklet, "A Senator's Guide to Disability," and ask that the clerk distribute it to the desks of senators.

• (1430)

[Translation]

QUEBEC

LINGUISTIC SCHOOL BOARDS— AMENDMENT TO SECTION 93 OF THE CONSTITUTION— FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Lucie Pépin: Honourable senators, pursuant to rule 104, I have the honour to table the report of the Special Joint Committee to amend Section 93 of the 1867 Constitution Act concerning the Quebec school system on the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(For text of report, see today's Journals of the Senate.)

AIR CANADA

ORDER IN COUNCIL ISSUED PURSUANT TO THE
CANADA TRANSPORTATION ACT TO ALLOW DISCUSSIONS ON
PRIVATE SECTOR PROPOSAL TO PURCHASE AIRLINE—
SECOND REPORT PRESENTED

Hon. Lise Bacon, Chairman of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, December 9, 1999

The Standing Senate Committee on Transport and Communications has the honour to table its

SECOND REPORT

Your Committee, which was authorized on October 14, 1999, to examine and report pursuant to subsection 47(5) of the Canada Transportation Act, the order laid before this Chamber on September 14, 1999, authorizing certain major air carriers and persons to negotiate and enter into any conditional agreement, now tables its final report which is appended to this report.

Respectfully submitted,

LISE BACON
Chairman

(For text of report, see appendix to today's Journals of the Senate, p. 244.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Bacon: Honourable senators, pursuant to rule 97(3), I move that the report be reports placed on the Orders of the Day for consideration at the next sitting of the Senate.

On motion of Senator Bacon, the report was placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

**CIVIL INTERNATIONAL SPACE STATION
AGREEMENT IMPLEMENTATION BILL****REPORT OF COMMITTEE**

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, December 9, 1999

The Standing Senate Committee on Foreign Affairs has the honour to present its

FIFTH REPORT

Your Committee, to which was referred Bill C-4, An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated, Wednesday, December 1, 1999, and now reports the same without amendment.

Respectfully submitted,

PETER STOLLERY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Stollery, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

**INCOME TAX CONVENTIONS
IMPLEMENTATION BILL, 1999****REPORT OF FOREIGN AFFAIRS COMMITTEE**

Hon. Peter A. Stollery, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Thursday, December 9, 1999

The Standing Senate Committee on Foreign Affairs has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill S-3, An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, has examined the said Bill in obedience to its Order of Reference dated, Wednesday, November 24, 1999, and now reports the same without amendment.

Respectfully submitted,

PETER STOLLERY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

[Translation]

On motion of Senator Stollery, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SECOND REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chairman of the Standing Committee on Internal, Economy, Budgets and Administration, presented the following report:

Thursday, December 9, 1999

The Standing Committee on Internal Economy, Budgets and Administration has the honour to table its

SECOND REPORT

Your Committee is presently undertaking a review of the budgetary situation pertaining to Senate Committees.

Your Committee therefore recommends that, notwithstanding the Procedural Guidelines for the Financial Operation of Senate Committees, for any committee budget for the financial year 1999-2000 submitted to and approved by the Internal Economy Committee, your Committee be authorized to release no more than 6/12 of those approved funds until February 10, 2000.

The two exceptions to this recommendation are: i) the budget submitted by the Transport and Communications Committee concerning its review of the order under section 47(5) of the Canada Transportation Act, for the amount of \$19,900; and ii) the budget submitted by the Aboriginal Peoples Committee concerning its study on Aboriginal Self Governance, for the amount of \$14,750.

Respectfully submitted,

WILLIAM ROMPKEY
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration.

On motion of Senator Rompkey, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

SCRUTINY OF REGULATIONS

FIRST REPORT OF JOINT COMMITTEE PRESENTED

Hon. Céline Hervieux-Payette: Honourable senators, I have the honour to table the first report of the Standing Joint Committee for the Scrutiny of Regulations concerning its permanent reference and the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(For text of report, see today's Journals of the Senate.)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration

On motion of Senator Hervieux-Payette, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

CHILD CUSTODY AND ACCESS

FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Landon Pearson: Honourable senators, pursuant to rule 104, I have the honour to table the first report of the Special Joint Committee on Child Custody and Access, which deals with the expenses incurred by the committee during the First Session of the Thirty-sixth Parliament.

(For text of report see today's Journals of the Senate.)

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF CHANGING MANDATE OF THE NORTH ATLANTIC TREATY ORGANIZATION

Hon. Peter A. Stollery: Honourable senators, I give notice that on Monday, December 13, 1999, I will move:

That notwithstanding the Orders of the Senate adopted on Thursday October 14, 1999 and on Wednesday November 17, 1999 the Standing Senate Committee on Foreign Affairs which was authorized to examine and report upon the ramifications to Canada: 1. of the changed mandate of the North Atlantic Treaty Organization (NATO) and Canada's role in NATO since the demise of the Warsaw Pact, the end of the Cold War and the recent addition to membership in NATO of Hungary, Poland and the Czech Republic; and 2. of peacekeeping, with particular reference to Canada's ability to participate in it under the auspices of any international body of which Canada is a member, be empowered to present its final report no later than March 10, 2000; and

That the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until March 31, 2000; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

[Translation]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— REFUSAL TO ADOPT RECOMMENDATION TO DECLARE OTTAWA OFFICIALLY BILINGUAL—NOTICE OF INQUIRY

Hon. Marie-P. Poulin: Honourable senators, I give notice that on Monday next, December 13, 1999, I will call the attention of the Senate to the decision of the Government of Ontario not to adopt a recommendation to declare the City of Ottawa bilingual following its proposed restructuration.

[English]

• (1440)

THE SENATE

NOTICE OF MOTION TO UPHOLD ROYAL ASSENT PROCEEDINGS

Leave having been given to revert to Notices of Motions:

Hon. Anne C. Cools: Honourable senators, pursuant to rules 56(1) and 58(1)(i), I hereby give notice that, one day hence, I shall move:

That the Senate of Canada affirm its Royal Assent procedure in the Senate described by parliamentary authorities Norman Wilding and Philip Laundy "The Canadian ceremony seems to be that which most closely resembles the original.";

That the Senate uphold the sovereign right of Her Majesty, as enacted in the *Constitution Act 1867*, in the Royal Prerogative of the Royal Assent in respect of parliamentary proceedings and bills considered, voted or passed in both Houses of Parliament;

That the Senate as the House of Her Majesty's Royal Assent affirm its ancient constitutional right as the House of the Parliament, the House for the proceedings of the three estates of Parliament acting together as the One Parliament of Canada;

That the Senate affirm the Law of Parliament, the "lex parliamenti", that ancient law which holds that the

Royal Consent is required for Parliament's consideration of any bill or any parliamentary proceeding altering Her Majesty's Royal Prerogative;

That the Senate affirm that the parliamentary procedure for a private member of Parliament to obtain the Royal Consent is a motion for an address to Her Majesty requesting the same, as distinct from the other forms for obtaining Royal Consent which may be available to the Prime Minister or ministers acting under political ministerial responsibility; and

That the Senate affirm the necessity of the Royal Consent as given by Her Majesty to the consideration of bills affecting the Royal Prerogative, as that Royal Consent which was given by Queen Elizabeth II to the 1967 Royal Assent Bill, which Consent was delivered in the United Kingdom House of Lords by the Lord Chancellor Lord Gardiner at the bill's second reading on March 2, 1967, stating:

"My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Royal Assent Bill, has consented to place Her Prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill."

and weeks later, on April 17, 1967, in the United Kingdom House of Commons, delivered by the Attorney General Sir Elwyn Jones, stating:

"I have it in Command from the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

I beg to move, that the Bill be now read a Second time."

QUESTION PERIOD

TRANSPORT

DIVESTITURE OF PUBLIC WHARVES—ASSIGNMENT OF WHARF ON THETIS ISLAND TO INDIAN BAND ON KUPER ISLAND

Hon. Pat Carney: Honourable senators, my question is addressed to the Leader of the Government in the Senate, to whom I have given notice. On October 18, I wrote to the Minister of Transport objecting to his department's decision to allocate a public wharf on Thetis Island on the B.C. coast to the nearby native community of Kuper Island, which has its own

wharf. This move has caused Thetis Islanders great anxiety, since the wharf is their only access by water. The policy of the Department of Transport is to divest the public wharves to the local communities in which they are located. I have confirmed that this is still the policy.

Could the Leader of the Government in the Senate assist me in finding out whether it is the intent of the federal government to allocate public docks on one island to a native band on another island before any native land claims have been settled in this area?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for giving notice of this question earlier today. I was hoping also that she would help me with the pronunciation of the Indian band name.

Senator Carney: I can do that, honourable senators. It sounds like Penelope. It is Penelakut.

Senator Boudreau: I again thank the honourable senator.

The information I have gleaned suggests that in May of this year the band indicated an interest in the particular facility of which she speaks and that discussions began between the band and the Department of Transport. Subsequent to that, residents indicated some objection to the process, at least to the extent that they wanted to be involved. I understand that, as a result of those interventions, a meeting is now planned between the band and residents of the island, and as a result no negotiations with the Penelakut band have been completed. Hopefully these discussions between the residents and the band will lead to a satisfactory solution for all.

Senator Carney: Honourable senators, could the Leader of the Government in the Senate assist me in obtaining a reply to this letter of October 18 to the minister? If the Department of Transport has changed the policy — a change they never announced — it will isolate small communities and paralyze economic activity because every island has only one wharf. If the department gives an island's wharf to the control of another island, the economic activity of that original island is paralyzed. It would be helpful to me if the Leader of the Government could get the Minister of Transport to answer my letter of October 18.

Senator Boudreau: Honourable senators, I have no difficulty approaching the minister to request that the honourable senator's letter be answered.

NATIONAL DEFENCE

PROBLEMS WITH ENGINES OF PATROL FRIGATES

Hon. J. Michael Forrestall: Honourable senators, I have a question for the Leader of the Government in the Senate. Four CPFs, Canadian patrol frigates, have been hit by generator blow-outs. About four or five years ago, we had a plague of similar problems, and we spent a large amount of money trying to track down the cause and to correct the problem. What is the

government planning with respect to the four frigates that are out of service now?

While I am on my feet, are there any indications that this problem may occur in other frigates, and, if so, on the East Coast, the West Coast or on both?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I only have information on the four patrol frigates to which the honourable senator referred.

The problems experienced by the Canadian patrol frigates are quite limited in nature, affecting the electrical generators and not the propulsion engine. However, a thorough technical investigation is ongoing. Both temporary and longer-term measures are being implemented. One would hope that this type of failure would not recur since the equipment and the frigates generally perform well.

Senator Forrestall: Honourable senators, it is questionable whether they have performed well or not. We have been the subject of much criticism from our allies in other parts of the world about the ability of frigates that cannot be sailed at top speed because of this very problem. We also know they perform very well minus 40 per cent of their capability: a safe, reliable, shipborne helicopter. Given these two major problems, it is a little difficult to say, without tongue in cheek, that our frigates are performing well.

REPLACEMENT OF SEA KING HELICOPTER FLEET— TIMING OF ANNOUNCEMENT

Hon. J. Michael Forrestall: Honourable senators, can the minister give us some indication as to whether, before we return in February, there will be an announcement with respect to the procurement program for the shipborne helicopter?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not in a position to make any statement today with respect to the timing of any procurement announcements. It is a matter of top priority with the Minister of National Defence as well as for many in the Senate and in the other place. We all hope that such an announcement can be made in the near future.

Senator Forrestall: The near future is now 1,792 days old and counting.

• (1450)

The Hon. the Speaker: Honourable senators, if the Honourable Senator Forrestall wishes to stand up, we will listen to him.

Senator Forrestall: Honourable senators, I wish to remind the distinguished Leader of the Government in the Senate that the term "immediate action" was used by a predecessor of his some four years ago — that is, about 52 months ago, which is 52 times 30; you figure it out — regarding the shipborne helicopters.

My questions to the minister are: How long is "immediate"? How long is "soon"? How long does "top priority" take? In other words, when will we get new helicopters?

Senator Boudreau: Honourable senators, my immediate predecessor categorically denies using the word "immediate" on any occasion in the past!

Senator Graham: Hear, hear!

Senator Boudreau: With respect to the question, the Armed Forces have initiated a number of major new programs over the period which he describes. As we wait for the procurement of the new on-board helicopters, we have made progress with other programs, including the procurement programs for the search and rescue helicopters, for submarines and for enhancing the living allowances and the circumstances of the forces themselves.

I understand the honourable senator's impatience with the on-board helicopter program, but I am hopeful that his diligent efforts will be rewarded in the very near future.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL—OPPOSITION FROM GOVERNMENT OF ALBERTA

Hon. Douglas Roche: Honourable senators, this question is directed to the chairman of the Standing Senate Committee on Social Affairs, Science and Technology. As a result of yesterday's exchange here in the Senate on Alberta's letter to the chairman of December 7, the Government of Alberta informed me today that it did not receive an invitation to appear before the committee on Bill C-6. To be fair to the chairman, do I not believe Alberta requested an invitation, but simply sent a letter. What we may be facing here is a failure of adequate communication, and not ill will. Nonetheless, Alberta's concerns with interference in areas of provincial jurisdiction remain. Will the chairman undertake to address Alberta's concerns, as expressed in the letter, when he speaks in the Senate today on the bill?

Hon. Michael Kirby: Honourable senators, in reply to the question of Senator Roche, I will make two observations.

First, as I indicated yesterday, I thought that the Government of Alberta had been invited to appear, although I was very careful to say — and I just read Hansard — that I would confirm that with the clerk of the committee. In fact, the Government of Alberta, in contrast to the Government of Ontario, did not ask to appear before the committee. They did submit a brief to us — and, another one was received two days ago — but they did not ask to appear. It may have been an oversight on the part of the committee not to invite them, but they certainly would have been welcomed as witnesses had they asked to appear. Indeed, any committee I have ever chaired has always welcomed representations from provincial governments.

The second issue is the constitutional issue. I will not deal with that in my comments today. I will stand by the comments I made yesterday, which is simply that the committee had expert testimony which satisfied all members of the committee that the proposed bill is constitutional. Therefore, that issue was not dealt with in our report because we believe the bill is constitutional and the evidence before the committee strongly supports that conclusion.

ENVIRONMENT

ALBERTA—ANNOUNCEMENT TO PROCESS IMPORTED HAZARDOUS WASTE AT SWAN HILLS TREATMENT CENTRE—GOVERNMENT POLICY

Hon. Mira Spivak: Honourable senators, the Government of Alberta has announced a change in policy affecting the Swan Hills Treatment Centre. The change in policy allows the Swan Hills Treatment Centre to import and treat raw waste, including PCBs and other contaminants, without environmental assessment. Honourable senators, the company which manages the treatment centre does not have an unblemished record. It has a record of leaks, explosions and pollution convictions. It failed to report a major release of dioxins and furans several years ago — a release which caused health problems for people downstream and contaminated fish and wildlife. It was fined \$625,000 for so doing.

The United States has a ban on the importation of foreign generated wastes. Of course, this change in policy of the Government of Alberta does not just affect Alberta since these particular wastes may come in through other provinces, other ports and be trucked to Alberta, thus raising safety and health issues for Canadians along those routes.

In light of this announcement, does the Government of Canada see any need to change its stance on the importation of wastes generally? Will the Leader of the Government inquire as to whether the Minister of the Environment is requesting a federal environmental assessment? They have the right to demand that assessment because this involves more than just the Province of Alberta. Of course, the province itself is not planning such an assessment.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the decision to treat hazardous wastes in the Swan Hills facility is a decision presently within the jurisdiction of the Government of Alberta. While the decision to import or export hazardous materials must meet the federal standards of the hazardous waste regulations, it is still within the jurisdiction of the Province of Alberta. In fact, other provinces and other jurisdictions presently import foreign-produced wastes.

I do not know specifically the position of the Minister of the Environment with respect to the environmental assessment as raised by the Honourable Senator Spivak. However, I will direct an inquiry to the minister and respond next week.

Senator Spivak: Honourable senators, is the Leader of the Government in the Senate stating that it is within the jurisdiction of the provinces to import this waste and that the issue of trucking and conveying hazardous wastes through other provinces is also under provincial jurisdiction? I am not sure I understood the leader's response.

Senator Boudreau: Honourable senators, the export and import of hazardous waste regulations are within federal jurisdiction and federal responsibility. Those regulations will be enforced in this situation, should they go forward with the importation. The amendment of the operating licence of the facility to accommodate wastes from a foreign country is within the jurisdiction of the province, as I understand it.

Senator Spivak: Honourable senators, boundaries between provinces are under the export and import regulations. It is the trucking of waste across boundaries that interests me. Is the leader saying that is not a provincial responsibility but comes under federal jurisdiction?

Senator Boudreau: Honourable senators, to import or export any such wastes, facilities must meet the Government of Canada's requirements under the hazardous wastes regulations. These regulations provide health and safety standards for the treatment of that waste.

• (1500)

The treatment in the facility itself is authorized through the operating licence granted by the province to the facility. A number of provinces operate facilities which import hazardous wastes into their jurisdictions.

Senator Spivak: Honourable senators, is the Government of Canada not concerned that we might become the repository of hazardous wastes from around the world? These are serious chemicals which contain dioxins and furans. Under the recently passed legislation, we are trying to have these chemicals banned, not import them.

Senator Boudreau: Honourable senators, no doubt the Government of Canada would be concerned with a scenario where we became the repository of the world's hazardous wastes. The opinion of the minister at this point is that the existing regulations will enable us to deal appropriately with this particular situation.

AGRICULTURE AND AGRI-FOOD

PLIGHT OF WESTERN GRAIN FARMERS— RESPONSE BY GOVERNMENT

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate and deals with the critical situation and the crisis faced by farmers.

The World Trade Organization meetings in Seattle did not turn out positively. The Minister of Agriculture, Lyle Vanclief, held out little hope that Canadian grain farmers will soon see relief from international subsidies. I came to the same conclusion after talking to people from Europe, the United States and other countries.

The standing committee in the House of Commons has been meeting out West. I attended the meetings in Estevan and Regina. In fact, I was asked by the Saskatchewan Minister of Agriculture to help with their presentation to the committee.

The farmers, who are hurting severely, are asking, in a very emotional way, if anyone is listening. I know the House of Commons committee is out there listening, and they listened very well. I was proud of them as Members of Parliament because they heard, and it seemed that they understood.

Does the leader believe, as a member of the cabinet, that the cabinet is listening to the voices of farmers and to their cries as they face this crisis? It has been publicized all over Canada that Mr. Milne, one of the members of the House of Commons, will be holding a benefit for the farmers in Toronto. It cannot be that people do not understand the crisis that these farmers are facing. Is cabinet listening? Is the minister willing to carry the message from this corner? Speeches on this issue from his side of the house have been just as strong as those from this side. Is anyone listening?

Senator Gitter: No, they are not listening.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the level of concern expressed in the debate initiated by Honourable Senator Gustafson has already been conveyed to the Minister of Agriculture. The work of the House of Commons committee will be taken into serious account. As the honourable senator said, they have been very diligent about their duties, and any resulting report will obviously be taken very seriously by the minister and his cabinet colleagues. Hopefully, this report will be forthcoming in a reasonably short period of time.

Senator Gustafson: Honourable senators, I have before me a news release indicating that the farm crisis program is an absolute failure and that Ontario and Saskatchewan are pulling out. We are only a few days away from moving into the next millennium, the next generation, and the next century. We have been hearing about and discussing this situation for one-and-one-half years. Nothing has come forward yet that has been workable.

I cannot emphasize enough the seriousness of the situation. It is important that the Prime Minister, the Minister of Agriculture and cabinet listen. I can say positively that the Senate has listened. I believe that the Standing Senate Committee on Agriculture and Forestry certainly responded positively. The question is whether the government will respond. This is most important.

Senator Boudreau: Honourable senators, the honourable senator refers to two provinces which have indicated their unhappiness with the existing safety net programs, but the reasons for their unhappiness differed quite significantly. The Province of Ontario believes that not enough of the safety net was provided to their particular area, and, by extension, one would conclude that they believe that too much of the safety net has been extended elsewhere.

The federal and provincial agricultural ministers have just concluded a meeting in Toronto. That issue was on the table, and I believe that is where some of those statements arose. The minister agreed that the process should be ongoing and not end with the termination of the conference.

I believe that the Commons agriculture committee, report will indeed have something positive and substantial to contribute to the ongoing discussion between the federal government and the provinces.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to questions raised in the Senate on November 24, 1999 by Senator Tkachuk and Senator Stratton regarding the cost of the gun registration program and a response to a question raised in the Senate on November 25, 1999 by Senator Forrestall regarding the replacement of the Sea King helicopter fleet and his request for a copy of the statement of requirements.

JUSTICE

COST OF GUN REGISTRATION PROGRAM— RESPONSIBILITY OF MINISTER

(Response to questions raised by Hon. David Tkachuk and Hon. Terry Stratton on November 24, 1999)

The figure of \$85 million is not the only figure Minister Rock estimated. It is a partial extraction of information presented by Minister Rock in April of 1995 to a House of Commons Committee. That documentation estimated the cost of firearms control for 5 years to be \$184 million. The \$85 million would be required to set up the system. The balance of the estimate included running the former system (C-17) and operating the new system.

As the legislation passed through Parliament in 1994, new features were added including spousal notification and more astringent background checks for license applicant.

Subsequent to the legislation passing the House but prior to completing the building and implementation of the system, the provinces of Alberta, Saskatchewan and Manitoba together with the Northwest Territories and the Yukon announced that they would not administer the program in their jurisdictions. All of these events added to the cost of setting up and implementing the system. The Minister of Justice has been saying since 1998 that the original \$85 million for building and implementing the system had increased to \$120 million.

It is important to recall that the overall costing of this program is comprised of three elements: Running the old system; building and implementing the new system; operating the new system.

With the implementation of the new system December 1, 1998, our obligations to run the old system were largely terminated, as were the initial construction and implementation costs. The cost of running the former system was about \$12 million per year and those costs ended December 1, 1998. The cost of building and implementing the new system was \$120.4 million. The cost of running the new system depends upon three independent factors: the timing citizens choose to enter the system in compliance with the legislation; the costs of overcoming start-up problems; the final costs of our agreements with provinces for their administration of this program.

In the end, we expect the average costs of administration of the *Firearms Act* to be comparable to other national administrative system such as Passport Office and the Intellectual Property Registry. We are in the final stages of negotiation with provinces respecting the Service Delivery Model that will govern federal payments to jurisdictions for their administrative costs.

That we have had problems with respect to our implementation is a matter of public record. We commissioned a study by a major consulting firm to assist us to identify the reasons for our processing difficulties and potential solutions. They reported in June of this year indicating that there were problems concerning high rates of error on applications sent for processing by the new system, system capacity, and productivity errors arising from our business practices. The report noted that the type of problems we are experiencing are normal for an undertaking of this size at this stage of implementation. We have developed an action plan for dealing with these difficulties.

The money approved to run this program is provided within the context of the Effective Project Approval (EPA) decision rendered by Treasury Board, consistent with their Major Crown Project policy. For every fiscal year between

1995/1996 and 1998/1999, this program has operated within the budget envelope described in the EPA. Dealing with the start-up problems noted above will add a significant challenge to administration of the program for the fiscal year 1999/2000. The Minister of Justice and the Canadian Firearms Centre are committed to operating this program successfully within the limit approved by Treasury Board. No distribution of monies to the program can be made without Board concurrence. All parties are committed to delivering an effective program within those constraints.

A variety of reports are available for reporting the financial situation of this program. These include the Departmental Performance Report and the report on Plans and Priorities.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTER FLEET— REQUEST FOR COPY OF STATEMENT OF REQUIREMENTS

(Response to question raised by Hon. J. Michael Forrestall on November 25, 1999)

As the Minister has said on numerous occasions, the Sea King helicopters need to be replaced. In fact, the Minister confirmed that the Maritime Helicopter Project is his number one equipment priority and that a procurement strategy is being developed.

The Statement of Requirements will not be tabled in this Chamber at this time. As the Minister has previously indicated, in addition to the Statement of Requirements, a number of issues regarding the procurement strategy of the MHP must also be carefully examined, and other Government Departments have to be consulted. The Government will make an announcement when these issues have been addressed.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I call the Orders of the Day, I draw your attention to a distinguished visitor in the gallery. It is Mr. Blair Morin, who is a leader and councillor of the Enoch Cree Nation.

On behalf of all honourable senators, I wish you welcome to the Senate.

ORDERS OF THE DAY

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Bryden, for the third reading of Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, as amended,

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Doody, that the Bill be not now read a third time but that it be amended in clause 7, on page 7:

(a) by deleting lines 16 to 22; and

(b) by renumbering paragraphs (h.1) and (h.2) as paragraphs (h) and (h.1), and any cross-references thereto accordingly.

Hon. Michael Kirby: Honourable senators, I rise to speak to the amendment to the bill which was moved yesterday by Senator Murray in his most entertaining address. There is no question that his Cape Breton background certainly comes to the fore when he launches a speech in this house. I would not attempt by any means to match his performance but rather will deal with the substance of what he said. That is clearly easier.

Let me make it clear that I am not in complete disagreement with what the honourable senator said yesterday. Senator Murray has raised a point for which there are legitimate and valid concerns. He asked why our privacy rights should be extinguished 20 years after we are in the grave. As Senator Murray pointed out yesterday, for a number of people, particularly people in public life like him, this is a matter of some concern. Having known Senator Murray for some time, I understand why he might be uneasy about that.

• (1510)

When this matter was raised in committee, the government members of the committee felt strongly that it would be a mistake for the committee to adopt this amendment. We felt it would be a mistake to adopt the amendment in light of the fact that we had heard relatively little evidence on it. This is in contrast to the amendment in relation to the health care sector that was adopted at report stage on Tuesday. On that amendment,

we heard from a significant number of witnesses. We had many hours of testimony from a wide cross-section of witnesses. As I indicated yesterday, on the health care issue, the committee was of unanimous agreement that the amendment ought to be passed. We are delighted that this chamber adopted the amendment yesterday.

The issue Senator Murray raised yesterday is that a certain provision in Bill C-6 has the effect of removing the privacy protection contained in that bill 20 years after an individual dies.

In the limited evidence we heard on that subject, we heard that the so-called 20-year rule exists in other legislation, notably the Privacy Act and the National Archives of Canada Act.

We also heard that it is not as if, under this bill, any request for information will automatically be honoured some 20 years after a person's death. As Industry Canada officials pointed out in their testimony before the committee, this bill does not completely extinguish privacy rights of the deceased 20 years after their death. It allows disclosure only for purposes for which the data was originally collected and only for purposes for which the individual would have had to give consent for its collection in the first place.

We also heard from a privacy expert, Mr. Ian Lawson, who argued — it was a unique argument that neither Senator Murray nor I had heard before — that there is a legal principle that one's rights should not be enforceable after one has died. In effect, Mr. Lawson's argument was interesting. He based it on the logic that one cannot give consent after one has passed away. That seemed to be a practical issue, except, as Senator Murray and I both pointed out to him, that this is where heirs and family members clearly become an issue. Neither Senator Murray nor I gave much weight to Mr. Lawson's testimony.

Another expert witness on privacy, Valerie Steeves, made an interesting observation. Although she had testified on this bill before the House of Commons, was testifying before us and had been involved with this bill for a long time, until Senator Murray raised his question with her last week, that issue had never crossed her mind. She had never been asked a question about it. It had never been raised by any of the people with whom she consults.

Therefore, honourable senators, this is not an issue on which any of the witnesses before the committee had any knowledge or had thought about. It is a provision that is in other acts, including the Privacy Act. As honourable senators know, the Privacy Commissioner, Mr. Phillips, now administers the Privacy Act.

Honourable senators, it seemed to me and to the majority members of the committee that in conjunction with the work that I spoke about yesterday concerning the need for the government to undertake a substantial revision of the Privacy Act to bring government into line with the provisions Bill C-6 imposes on the private sector, part of that study should clearly include a study of the so-called 20-year rule and that it should be done in depth and quickly. It was our view that simply changing Bill C-6 and ignoring various other federal acts would create a double standard of protection between the private sector and government, one that has been created already, in part, by the differences between Bill C-6 and the Privacy Act. Those of us on the majority side of the committee preferred to deal with that issue at one time. In other words, changes to the Privacy Act and the National Archives of Canada Act should be done at the same time.

Honourable senators, that is the main comment I have to make to Senator Murray. I agree with him in terms of the issue he raised and in terms of its substance. It is my view and the view of the majority members of the committee that this is a timing issue. It should be dealt with when we deal with the changes to the Privacy Act that will be coming down the road.

Therefore, honourable senators, my view is that this is not the appropriate time to proceed with this amendment, even though the spirit and intent of it are not things with which I have difficulty. My great difficulty is with its timing. I hope we look at this issue again, when presumably the Privacy Act, under pressure from this committee, comes back before the committee within the next few months.

The Hon. the Speaker: Honourable senators, if no other honourable senator wishes to speak, the question is on motion in amendment of the Honourable Senator Murray.

Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I have been informed by the whips that there is agreement on a 30-minute bell. Is there leave from honourable senators for a 30-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker: The vote will take place at 3:45 p.m. Call in the senators.

• (1540)

Motion in amendment negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Andreychuk	Keon
Angus	Kinsella
Atkins	LeBreton
Beaudoin	Lynch-Staunton
Berntson	Meighen
Carney	Murray
Cochrane	Nolin
Comeau	Rivest
DeWare	Roberge
Doody	Roche
Forrestall	Rossiter
Ghitter	Simard
Grimard	St. Germain
Gustafson	Tkachuk—29
Johnson	

NAYS

THE HONOURABLE SENATORS

Adams	Joyal
Bacon	Kenny
Boudreau	Kirby
Callbeck	Kroft
Carstairs	Losier-Cool
Chalifoux	Maheu
Christensen	Mercier
Cook	Milne
Cools	Pearson
Corbin	Pépin
Fairbairn	Perrault
Ferretti Barth	Perry Poirier
Finestone	Poulin
Finnerty	Poy
Fitzpatrick	Robichaud
Fraser	(<i>L'Acadie-Acadia</i>)
Furey	Robichaud
Gauthier	(<i>Saint-Louis-de-Kent</i>)
Gill	Ruck
Grafstein	Stollery
Graham	Taylor
Hays	Watt—43.
Hervieux-Payette	

ABSTENTIONS

THE HONOURABLE SENATORS

Prud'homme—1.

The Hon. the Speaker: Honourable senators, the question is now on the motion by the Honourable Senator Kirby, seconded by the Honourable Senator Bryden, that Bill C-6 be now read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

• (1550)

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Furey, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the Second Session of the Thirty-sixth Parliament.—(7th day of resuming debate)

Hon. Leonard J. Gustafson: Honourable senators, I rise to speak on the Speech from the Throne. This is an opportunity to express how I feel about what was in the Throne Speech and what was not in the Throne Speech.

Honourable senators, I listened carefully to the Speech from the Throne. I am a third generation farmer, whose grandchildren are fifth generation farmers. My grandfather came from Sweden to farm in Canada in 1905, and he became a very proud Canadian. I listened with attentive ears to the Speech from the Throne to hear whether there was any mention of agriculture. There was none.

In speaking about this situation, I must say that we farmers are proud people. However, during the last few days I have seen men weep, I have seen them break down, and I have heard them say that it is demoralizing to need to get up and complain and talk about this situation. The women, on the other hand, are much better at being very blunt about the situation that they and their families are facing because of hardship.

I know that honourable senators on the other side have heard, as I have in committee, about their problems and their serious situations. I see the Honourable Senator Joyce Fairbairn, who is the deputy chair of the Agriculture Committee, nodding her head. We heard again this morning from the soft wheat growers in Alberta and the problems they are having. I take no joy in delivering these words today. I do so because of what we have heard out there and the importance that this government should place, and I hope will place, on doing something about the agricultural situation.

Honourable senators, I make this statement: This government, the Senate and the House of Commons, the Prime Minister of Canada and the people of Canada, cannot ignore the serious crisis situation facing the agricultural community because it is a very serious national problem for the whole country. It not only affects Saskatchewan, Manitoba and Alberta, but the country as a whole.

Are all farmers doing badly? No. I wish to be very clear and honest about that. Dairy and chicken producers, and some other areas, are doing quite well and we do not wish to take their success from them. We, as grain farmers, need their support. One of the senators on the other side has cattle, and we have the highest prices in cattle that we have seen for many years. Therefore, they are doing quite well in the cattle industry.

The grain producers are hurting quite severely because of low commodity prices. I have never seen them so low. I recently delivered a B-train of wheat to the Weyburn terminal from my farm. It was not a good grade of wheat. It had frozen due to the fact that we seeded late because of the wet conditions. The total return for that load of grain was \$3,600 gross. The cheque for that B-train of wheat was \$1,400.

Yesterday I talked to a man in Regina who delivered some feed wheat. He received 75 cents a bushel. I told him that he would get a bill. We hear stories of this kind of thing happening. The price of grain has been very low. Flax dropped approximately 40 cents again yesterday. The price is now around \$4. It was near the \$9 mark a year ago. Canola prices were \$8.50 a year ago and today are \$5.41. The average income for a farmer in Manitoba is the lowest it has been in this century. Saskatchewan is not quite as bad, where the average income is the lowest it has been since 1933. Those are the numbers we are getting from the agricultural departments.

We are facing a serious problem. Because of the actions of government we not only have low commodity prices, but we face some other very serious problems, especially in freight rates. Again and again, farmers have stated that one-third of their income from delivering grain goes to freight the grain out of the country because we are landlocked. We heard this morning from the soft wheat growers in Alberta, who laid out important issues regarding the cost of freighting their grain.

Of course that raises other subjects as well. It raises the subjects of roads and infrastructure which are changing. I suppose some of those changes needed to come. The grain elevator at Macoun was bulldozed. I was down to Seattle and during that time I ran into my grandson. He asked how I could have let that happen. That becomes an emotional thing, because in the Prairies people are used to seeing an elevator every nine miles, and they are part of the landscape.

With some of these issues change was needed. I realize that. However, those changes could have come quite differently. I do not wish to politicize this matter, but I must raise some of the programs that were there as safety nets for farmers when there was a Conservative government. There was the GRIP program,

which was a positive program for us. I believe it was Senator Hays who said to me time and again in the committee that we should be getting on with the work of fixing up these safety net programs. It was not a perfect program, but we need some long-term programs to go ahead.

Perhaps we are all to blame to some extent. We had some pretty good years when we did not pay that much attention and, of course, the most important thing then was that the deficit situation be brought under control. I think we all agree that the deficit was getting out of hand. On the other hand, there are certain things we failed to do in agriculture which, if they had been done, would have kept us from the serious situation in which we now find ourselves.

• (1600)

Honourable senators, that brings me to the AIDA program. The government has put money into this program, but it is not working. We have heard time and again that it is not working. I can name farmers who have received some money, but they are the wrong people. For instance, the program worked for a farmer who did not diversify because he had oil wells and other big income but stayed with wheat. That is because if you average wheat prices over the last three years, you will see that they were fairly high, after which the prices dropped. I know one farmer who received \$40,000. I know another who received \$38,000. I know one farmer who was supposed to have received \$75,000. All these farmers are in the oil business. They said, "We have other income. Why should we change our operation and diversify?" They did not diversify and the program worked for them. The farmer who diversified and expanded and grew canola, for example, did not receive anything, yet he had additional expenses. The program needs a serious overhauling. I think it is agreed that that must be done.

In my opinion, what would have worked — and this the opinion was expressed by farmers in Regina and Estevan during the meetings I attended — is a direct injection of capital. It could have taken the form of an acreage payment. I do not care what it is called. It should have been across the board and injected into agriculture to take care of some of the serious needs.

How serious are those needs? There are crisis situations, which leads to social problems. Some of the stories are too drastic to tell. They have been told at meetings where people have broken down and wept over their situations. Some say there have been up to 15 suicides directly related to this situation. There is a lot of pride in being a farmer. As one gentleman in Estevan said the other day, "My grandparents came from Russia. I never heard my grandparents say one thing about this country that was not good, not one thing." His grandparents, along with a milk cow, made their way through Russia. The grandmother milked cows until she was 82 years of age. She never let them forget that that first milk cow saved her two boys and helped them get to Canada. He said that his grandparents were proud Canadians. He said, "I hope I can be as proud a Canadian to my children and leave them the farm and the heritage my grandparents left me."

The government has to make some serious decisions, and I believe that it will do the right thing. I give them that much credit, after having heard all that has been said and after considering all that is being done to make the media and the government aware of the situation. The standing committee of the other place was most receptive when it heard testimony on this matter. I was asked by the Minister of Agriculture of Saskatchewan to help him make their presentation to the standing committee. They listened well. They will bring back a report that will say many of the things that I am saying here today. I hope that the response will be a positive one for our farmers.

Social issues relate not only to the family and to the farm, but to the community.

The Hon. the Speaker *pro tempore*: The Honourable Senator Gustafson's speaking time has elapsed. Is the honourable senator asking for leave to continue?

Senator Gustafson: Yes, I am.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Senator Gustafson: I wish to say a few words about the impact of this situation on communities and the impact of any positive measures taken by the government. Every tractor dealership is a little factory. There are mechanics working in them. If they do not have work, they will have to collect employment insurance. One way or the other this will have social costs. It will cost the communities and the country. These people create jobs. They recondition tractors, trucks and machinery. The whole community benefits as a result of their work. If \$1 is spent on agriculture, it multiplies seven times, which is a whole other subject. I do not have time to get into the importance of that subject.

Agriculture is the third largest economy builder in Canada. There are great returns to the treasuries of Canada from agriculture. We cannot afford to let the industry down. Every member of the Senate has a responsibility, not only at the national level but in the areas they represent, to ensure that our government takes positive steps to help our farmers in agriculture in both the short term and the long term.

On motion of Senator Kinsella, for Senator LeBreton, debate adjourned.

• (1610)

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator

Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(*Honourable Senator Lavoie-Roux*)

Hon. Ione Christensen: Honourable senators, I rise to give support to Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.

For the last 15 years, I was privileged to be the principal caregiver for, first, my parents and then a very old friend and teacher who had no family and required daily care. As each of these three persons reached the stage where palliative care and pain control was needed, I was the person trusted to ensure that their wishes were carried out. In all three cases, we first had extensive discussions of what their wishes were regarding life-sustaining treatment and pain control, and we then discussed that matter with their doctors and ensured that their wishes were noted on their charts.

With all these persons in their last days, pain control and the starting of artificial hydration and nutrition treatments became an issue, and I was called upon to reaffirm their wishes as they were no longer able to do so themselves. In two cases, I did have enduring power of attorney, but, with all three, I knew what they wanted and was able to follow through on their wishes.

What would have happened if I had not been there? I found that the doctors and the professional caregivers hesitated to withhold treatment that would sustain life. They were in a grey area, and it is just that grey area which this bill addresses.

National guidelines, the promotion of public awareness and, most of all, professional training in palliative care are very badly needed. As we move into the new millennium, a large proportion of our population will require such care, and we must be prepared to meet that need.

I thank Senator Carstairs and other senators who have been instrumental in promoting this issue.

The Hon. the Speaker *pro tempore*: Honourable senators, this item will again stand in the name of Senator Lavoie-Roux.

[*Translation*]

LIBRARY OF PARLIAMENT

FIRST REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Joint Committee on the Library of Parliament (mandate of committee), presented in the Senate on December 8, 1999.—(*Honourable Senator Robichaud, P.C. (L'Acadie-Acadia)*)

Hon. Louis J. Robichaud: Honourable senators, I move the adoption of this report.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

OFFICIAL LANGUAGES

FIRST REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Joint Committee on Official Languages (quorum), presented in the Senate on December 8, 1999.—(*Honourable Senator Losier-Cool*)

Hon. Rose-Marie Losier-Cool: Honourable senators, I move the adoption of the report.

Hon. Serge Joyal (The Hon. the Acting Speaker): Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

REVIEW OF ANTI-DRUG POLICY

MOTION TO FORM SPECIAL SENATE COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Cohen:

That a Special Committee of the Senate be appointed to reassess Canada's anti-drug legislation and policies, to carry out a broad consultation of the Canadian public to determine the specific needs of various regions of the country, where social problems associated with the trafficking and use of illegal drugs are more in evidence, to develop proposals to disseminate information about Canada's anti-drug policy and, finally, to make recommendations for an anti-drug strategy developed by and for Canadians under which all levels of government to work closely together to reduce the harm associated with the use of illegal drugs;

That, without being limited in its mandate by the following, the Committee be authorized to:

- review the federal government's policy on illegal drugs in Canada, its effectiveness, and the extent to which it is fairly enforced;

- develop a national harm reduction policy in order to lessen the negative impact of illegal drugs in Canada, and make recommendations regarding the enforcement of this policy, specifically the possibility of focusing on use and abuse of drugs as a social and health problem;

- study harm reduction models adopted by other countries and determine if there is a need to implement them wholly or partially in Canada;

- examine Canada's international role and obligations under United Nations conventions on narcotics and the Universal Declaration of Human Rights and other related treaties in order to determine whether these treaties authorize it to take action other than laying criminal charges and imposing sentences at the international level;

- explore the effects of cannabis on health and examine whether alternative policy on cannabis would lead to increased harm in the short and long term.

- examine the possibility of the government using its regulatory power under the *Contraventions Act* as an additional means of implementing a harm reduction policy, as is done in other jurisdictions;

- examine any other issue respecting Canada's anti-drug policy that the Committee considers appropriate to the completion of its mandate.

That the Special Committee be composed of five Senators and that three members constitute a quorum;

That the Committee have the power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence from day to day as may be ordered by the Committee;

That the briefs received and testimony heard during consideration of Bill C-8, *An Act respecting the control of certain drugs, their precursors and other substances*, by the Standing Senate Committee on Legal and Constitutional Affairs during the Second Session of the Thirty-fifth Parliament be referred to the Committee;

That the Committee have the power to authorize television, radio and electronic broadcasting, as it deems appropriate, of any or all of its proceedings;

That the Committee be granted leave to sit when the Senate has been adjourned pursuant to subsection 95 (2) of the *Rules of the Senate*; and

That the Committee submit its final report not later than three years from the date of its being constituted.—(*Honourable Senator Kenny*)

Hon. Colin Kenny: Honourable senators, I rise today pursuant to the Honourable Senator Nolin's motion to form a special committee of the Senate to reassess Canada's anti-drug legislation and policies. The time has come to re-examine our current strategies to address the problems of drug use.

Honourable senators, it is apparent to all of us that there has been a change in the attitudes of Canadians toward drug-control policies and their results. There is greater recognition among Canadians that current policies are not producing the desired results. Significant sums of money are being invested in policing drug use while related health and social problems continue and expand.

Creating a special committee with the proposed broad mandate would be an ideal forum to consult with members of the public. This process would help determine the specific needs of various regions. Legal and medical experts would recommend an anti-drug strategy that takes into account legal matters, health problems and financial questions.

Honourable senators, this is a pressing issue. Already, more than a year has passed since Dr. Diane Riley put forth her report in November of 1998 on drugs and drug policy in Canada, prepared for Senator Nolin. The time has now come for us to evaluate the views and values of Canadians, and to take into account the costs and benefits of current policies. Information on alternative drug approaches and models adopted by other countries would help determine what policies to develop in Canada. Legal issues, health problems and financial concerns relating to drug use are increasing and becoming more complex daily. Because the issue is a sensitive one, governments too frequently step aside on the issue. It is not in Canada's or Canadians' interests to do this any longer.

The first recommendation of Dr. Riley's report was that there be an inquiry into drug policy in Canada and its relationship to domestic and international law, including human rights standards. She also said that this inquiry should examine drug policies and programs in other countries. Since that report was tabled, no such inquiry has taken place.

Senator Nolin has done us all a service by reminding us that there are important issues surrounding drug use that need to be addressed. There is a need for dependable information on drug use in Canada. Because a special committee of the Senate would have the power to examine witnesses, send for papers and records, and hear briefs and evidence, the final report would be a reliable source of objective information. A special committee would provide the necessary perspective, analysis and reflection required to develop potential solutions to the problems surrounding drug-use and drug-control policies in Canada.

• (1620)

Needless to say, there is great interest on the government's part in the outcome of such a study, and it is a great opportunity for the Senate to show leadership on a very important issue.

Honourable senators, I am urging you to support Senator Nolin's motion to create a special committee for the purpose of studying illegal drug use in Canada.

On motion of Senator Hays, debate adjourned.

PERSONAL INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS BILL

MOTION TO INSTRUCT SOCIAL AFFAIRS, SCIENCE
AND TECHNOLOGY COMMITTEE TO DIVIDE BILL
INTO TWO BILLS—ORDER WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Beaudoin:

That it be an instruction to the Standing Senate Committee to which Bill C-6 will be referred: That they have the power to divide Bill C-6, to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, into two Bills; the first consisting of Part 1 and Schedule 1 with Titles and a coming into force clause and the second consisting of the remainder of the Bill and Schedules 2 and 3 with Titles; that any proceedings on the second Bill may stand postponed until after the consideration of the first Bill; that either Bill may be reported to the Senate as soon as it has been considered; and that, notwithstanding the usual practice, the Senate give this instruction at any time while the Bill is before the Senate, even after committee consideration of the Bill has commenced.—(Honourable Senator Kirby)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I cannot see how Order No. 22 can continue to stand. The bill has been disposed of and a message has been sent to the other place. We are not seized of Bill C-6. It must be struck from the Order Paper.

Hon. Dan Hays (Deputy Leader of the Government): Agreed.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators, to withdraw this motion from the Order Paper?

Hon. Senators: Agreed.

Order withdrawn.

RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to religious freedom in China, in relation to the UN international covenants.—(*Honourable Senator Di Nino*)

Hon. Consiglio Di Nino: Honourable senators, in honour of Human Rights Day tomorrow, I should like to participate in this inquiry. I am pleased to rise to participate in the inquiry initiated by our colleague Senator Wilson, on religious freedom in China. As well, I should like to take this opportunity to comment on some remarks made by Senator Austin, both on this subject and on the contiguous issue of human rights in China.

I found the general tone of the Honourable Senator Wilson's speech to be positive and forward looking — perhaps, if truth be told, a touch too positive here and there. Her Chinese hosts must have been very inspirational. I was somewhat mystified, however, by her remarks concerning the spiritual group Falun Gong, of which I will have more to say in a moment. Senator Wilson said her "religious partners" — by that I gather she means the established churches — view the Falun Gong as a destabilizing and harmful, foreign-influence organization. I am not sure on what facts, if any, they based this rather bold assertion. I have certainly seen nothing that would lead me to a similar conclusion.

As Senator Wilson is no doubt aware, the Chinese constitution guarantees freedom of belief. So why do her religious partners and, by extension, I presume, herself as well, single out the Falun Gong? Is it because it is not one of China's five official religions? If so, I am disappointed. I would have thought that a person of Senator Wilson's stature in the religious community and her obvious experience would hold more tolerant opinions. Surely, she agrees that choosing a spiritual path is a personal choice. It is not something that can be dedicated or dictated by government.

In passing, I read this morning that there are a reported 30 million Chinese Christians who are subject to arrest, beatings and jail by Chinese authorities. Apparently, they do not attend officially sanctioned places of worship. I would be interested to know if Senator Wilson or her partners raised this issue with their hosts during their visit to China.

Honourable senators, before we rose for the summer break, Senator Austin took me to task over some remarks I made concerning human rights in China. The gist of his remarks was

that I am too confrontational, that we should be more accommodating to the Chinese. In other words, we should overlook some of the abuses occurring there. I, obviously, cannot and do not agree. Senator Austin and his colleagues in government would have us believe that our relationship with China has benefited Canada and Canadians enormously. According to them, everyone is a winner. It is a nice picture, but it is not totally true.

Honourable senators, our relationship with China is based on three major components. The first is immigration. I was first introduced to China and the Chinese in the late 1950s, when I was a young banker in Chinatown in Toronto. Over the years, I have kept in touch with various members of the Chinese community, and I can say without reservation that their presence has been a boon to our country. Chinese Canadians have made an immense contribution to Canada. They have worked hard and they have been honest and loyal citizens. They have broadened and enriched our culture. Canada has clearly been the big winner as far as Chinese immigration is concerned. However, the same, in my opinion, cannot be said of the second component in our relationship with China, which is business and trade.

In the years leading up to 1993, this relationship was relatively stable. The trade numbers were about equal. I think they were somewhere in the range of \$2.5 billion each way annually. All this changed when this present government came to office. Since 1993, Canadian taxpayers have been forced to subsidize, for unknown millions of dollars, attempts by Mr. Chrétien and his colleagues to increase Canada's opportunities and presence in China. The results have been dismal, to say the least. In fact, since that time, Canada's exports to China have steadily declined in dollar value while imports have more than doubled. As a matter of fact, I think it is closer to being triple.

The third component of our relationship with China deals with the role Canada has traditionally played as a proponent of human rights. One upon a time, honourable senators, Canadian governments promoted values and ideals that were the envy of the world. Unfortunately, as we all know, when it comes to China this is not the case. Today, we are just another set of businessmen seeking contracts. We have abandoned any pretence that there should be a link between human rights and trade. Prime Minister Chrétien says that we are too small to influence China. Honourable senators, we are not too small to criticize Russia over its action in Chechnya. We make sombre statements about atrocities in Rwanda and Burma. We rattle our sabre over Cuba. However, in the case of China we are too small.

Mr. Chrétien tells us that he is great pals with the Chinese leadership. Why does he not act on this friendship? Our best friends in the world are the citizens of the United States of America. We are not too small to criticize them. We do it all the time. When they do things we do not agree with, we tell them — and forcefully so. That is the way it should be. It is not considered confrontational or provocative. Why can we not do the same with China? Why this special treatment of the Chinese government?

Senator Austin assures us that China has made enormous progress over the past two decades in the area of human rights. He claims that Chinese people are better off now than they have been "at any time in the last several centuries." If this is in fact so, why are so many Chinese people trying to leave no matter how dangerous the journey, how leaky the vessel, or uncertain the outcome? Why is the Chinese government so committed to forcefully keeping Chinese citizens within the country's borders?

Honourable senators, this past summer, few short weeks after Senator Austin assured this chamber that China had changed for the better, the Chinese government arrested more than 30,000 of its citizens. Since then, it has continued to arrest more. I repeat: The Government of China has arrested 30,000 people. Their crime? According to the Chinese government — and, I presume, Senator Wilson's religious partners as well — it was belonging to the Falun Gong spiritual movement I mentioned a minute ago. In addition to arresting all these people, the government ordered more than 1.5 million cassettes, pamphlets, and so on, related to the movement confiscated or destroyed. There were even public book burnings.

Honourable senators, somehow it is hard to imagine book burnings at the dawn of the third millennium. The inquisition burned books; so did the Nazis. Now, it seems, the Communist Chinese have added their name to this short yet infamous list — and Senator Austin calls this progress.

• (1630)

Honourable senators, my aim in talking about the issue of human rights is not to demonize the Chinese. I truly believe that the Chinese people, those who know, are also appalled by what is happening in their country. My criticism is directed at the Chinese government, not the people of China.

I submit to you that, if we continue to do nothing of substance, the situation will never change. In fact, it will get worse. The Prime Minister says Canada cannot make a difference. Why, then, is his government telling the world it thinks human rights are important?

In a meeting of the Foreign Affairs Committee the other day, we were giving a briefing note prepared by the Library of Parliament. In it, members could read that the projection of Canadian values and culture is one of the pillars of Canadian foreign policy. It is one of the fundamental objectives. Are not human rights part of Canada's values? Obviously the answer is "yes".

The note also referred to a document entitled "Canada in the World." According to this document, Canada can make an important contribution to international security by promoting Canadian values, including respect for human rights, democracy, and the rule of law. Why are we not doing this with China? Why are we not promoting our values in our relations with them? All we seem to hear about are high-level, behind-closed-door meetings, plurilateral symposia, cooperative initiatives, and

dialogue projects. Where have these different bureaucratic meetings taken us since 1993? I would suggest not very far.

If the government believes religious freedom and human rights are fundamental pillars of its foreign policy, it should say so to the world, without exception. It should show by its actions that it has the courage of its convictions. Why is the Prime Minister not standing up on the world stage and criticizing the foreign occupation of Tibet or the religious persecution the Falun Gong in China? Is the lure of trade that strong, or are the supposed bonds of his friendship with the Chinese leadership that weak?

Senator Wilson tells us her religious partners in China believe the Falun Gong are a threat to stability in China. It is funny how that works. The Buddhists are not, the Catholic and Protestants are not, and neither apparently are the believers in the Prophet or those who follow the teachings of Taoism. It is just the members of the unofficial Falun Gong.

Honourable senators, on Monday of this week, the American president, Mr. Clinton, unlike his counterpart here, addressed this issue publicly. He called the mass imprisonment of Falun Gong members:

...a troubling example of a government acting against those who test the limits of freedom.

He went on to say:

The Chinese government's targets are not political dissidents, and their practices and beliefs are unfamiliar to us. But the principle must surely still be the same: freedom of conscience and freedom of association.

I would add that Mr. Clinton's remarks followed a similar expression of opinion last month by both Houses of the American Congress. In a concurrent resolution, both the House of Representatives and the Senate urged China to stop its persecution of the Falun Gong. The resolution pointed out, and rightly so, that the banning of the Falun Gong violates China's own constitution. It is also contrary to the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

Honourable senators, as Canadians finish celebrating Hanukkah and begin preparing for Christmas, we should all reflect on the fundamental values that these traditions represent. The Festival of Lights, the birth of Christ, and other similar celebrations remind us that there are transcendent values that all humans share and cherish. They remind us as well that there are places in the world where these values are denied and where the people who espouse them are persecuted. It is an appropriate time, I believe, for those of us who enjoy the fruits of liberty and democracy to pray for those of our fellow human beings who are denied them. In our prayers, honourable senators, we should ask that this government come to its senses and reclaim Canada's position as a leader in human rights everywhere in the world.

On motion of Senator Poy, debate adjourned.

[Translation]

THE ESTIMATES, 1999-2000

MOTION AUTHORIZING NATIONAL FINANCE COMMITTEE TO STUDY ESTIMATES—MOTION IN AMENDMENT—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Beaudoin:

That the Standing Senate Committee on National Finance be empowered to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2000; and

That the Committee present its report no later than March 31, 2000;

And on the motion in amendment of the Honourable Senator Robichaud, P.C. (*Saint-Louis-de-Kent*), seconded by the Honourable Senator Hervieux-Payette, P.C., that the motion be amended by adding, after the words "Estimates for the fiscal year ending March 31, 2000", the following:

"with the exception of Fisheries and Oceans Votes 1, 5 and 10;

That the Standing Senate Committee on Fisheries be authorized to examine the expenditures set out in the Estimates for Fisheries and Oceans for the fiscal year ending March 31, 2000; and

That the Committee report no later than March 31, 2000."—(*Honourable Senator Corbin*)

Hon. Eymard G. Corbin: Honourable senators, this motion stands in my name. I asked that debate on this motion be adjourned to protect the interests of the Committee on Foreign Affairs. In other words, I adjourned debate on behalf of Senator Stollery, who is not here at this time. I ask that this order now stand in the name of Senator Stollery.

Order stands.

[English]

LA FRANCOPHONIE SUMMIT

INQUIRY—DEBATED ADJOURNED—ORDER STANDS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 27(3), I request that this inquiry stand until the Christmas adjournment.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Hays: I will provide an explanation, if senators wish.

Honourable senators, this inquiry will drop from the Order Paper at the next sitting, in that it has been on the Order Paper for 14 days. I can advise honourable senators that it is my intention to move that we adjourn until Monday at four o'clock. Senator Gauthier would like to speak to this inquiry on Tuesday. In order for it not to be dropped from Order Paper before that opportunity to speak arises, I am asking for leave to extend the time, so that it remains on the Order Paper until the Christmas adjournment.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Senator Hays has now spoken to this inquiry. This side would not object to it now being seen to continue to stand in the name of Senator Gauthier, and that it be day one. This side is in complete agreement and concurs that Senator Gauthier would speak at a time certain on Tuesday next or any other day.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that Inquiry No. 1, standing in the name of Senator Gauthier, stay on the Order Paper?

Senator Hays: Honourable senators, it is fair and correct for Senator Kinsella to interpret my comments as speaking to the inquiry. In that case, as Senator Kinsella explained, the matter now is back to day one for the next sitting. That will achieve the purpose in a more elegant way, perhaps, than I had proposed. I think that is satisfactory.

Hon. Eymard G. Corbin: Honourable senators, I dispute the affirmation that Senator Hays or indeed Senator Kinsella has spoken to the inquiry.

• (1640)

It is the privilege of the member who gives notice of the inquiry to have a first go at it. Senator Gauthier has not yet spoken to this matter. To deduce that allowing anyone else to speak to an inquiry about which we know nothing has the effect of saving a day or bringing the item back to square one is a dangerous precedent to set.

Putting that aside, if we agree unanimously to bring the matter back to square one, regardless of the fact that Senator Gauthier has not yet spoken to it, that is another matter and I can agree to that.

Senator Kinsella: I agree completely with Senator Corbin's interpretation and advice. I think he is absolutely correct and I agree with him. My analysis was incorrect.

Hon. Sharon Carstairs: Honourable senators, I think we would address the concerns of all if we said that Inquiry No. 1 should appear on the Order Paper at the next sitting under day one.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I may have an inquiry or a motion to which I may not be ready to speak next week. Am I to use this as a precedent to ask to go back to day one without debate? We must be careful how we use this.

Senator Gauthier has indicated that he will speak to the inquiry on Tuesday. Let us just agree that he can speak to it on Tuesday, rather than invoke a blanket precedent — which would be tempting for others to invoke. Let us judge each case on its own merits.

Senator Hays: Honourable senators, I suggest that Tuesday is very close to the Christmas break and that, rather than interfere with what I think we have all agreed to, at least on one occasion here today, we allow His Honour to put the request that I originally made. That would add only an extra possibly two or three days. If that is in order, I would ask honourable senators to agree to that.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to continue the motion under the name of Senator Gauthier until Tuesday next?

Hon. Senators: Agreed.

Order stands.

HUMAN RIGHTS AND MULTI-ETHNIC CONFLICTS

INQUIRY—DEBATE ADJOURNED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) rose pursuant to notice of December 6, 1999:

That he will call the attention of the Senate to human rights and multi-ethnic conflicts.

He said: Honourable senators, I should like to speak to this inquiry. Mindful of the hour, I shall present an abridged version of my remarks.

I wish to speak on the inquiry today because, as Senator Andreychuk indicated in her statement at the beginning of today's proceedings, tomorrow, December 10, is International Human Rights Day. Senator Di Nino also drew this fact to our attention a few moments ago when he addressed this chamber.

December 10, International Human Rights Day, is an important day in the world community. Given that Canadians place such a high value on human rights, I think it is appropriate that, as the upper house of Parliament, we do give special focus to the Universal Declaration of Human Rights. It is also important for us to recall that it was a distinguished Canadian who had a direct hand in the drafting of the Universal Declaration of Human Rights, which was proclaimed on December 10, 1948, by the General Assembly.

This fall, at the United Nations, the current Secretary-General, Kofi Annan, in a report to the Security Council, of which Canada

is presently one of the rotating members, spoke about the protection of civilians in armed conflicts. The Secretary-General stated that, despite the adoption of the various conventions on international, humanitarian and human rights law over the past 50 years, hardly a day goes by where we are not presented with evidence of intimidation, brutalization, torture and killing of helpless civilians in situations of armed conflict.

Whether we speak of mutilations in Sierra Leone, genocide in Rwanda, ethnic cleansing in the Balkans, or disappearances in Latin America, the parties to conflicts have acted with deliberate indifference to those conventions on human rights.

Honourable senators, the end of the Cold War saw the world liberated perhaps from the threat of all-out nuclear war. At the same time, however, since the fall of the Berlin Wall, over 4 million people have been killed in violent conflicts and there remain millions of refugees and internally displaced persons around the world.

Events in the Balkans and elsewhere in this decade alone have shown the critical need to come to grips with the complexities of modern multi-ethnic conflict. At the same time, we are horrified by terrible events such as those in Rwanda in 1994.

We recognize that these issues are tremendously complex. As the Secretary-General also noted, we recognize that the maintenance of international peace and security requires action at all stages of a conflict or potential conflict, whether to prevent it, minimize its effects and end it once it has begun, or pursue peacekeeping and peace-building, including reconciliation and the administration of justice after it has ended.

Canada participates vigorously in these international interventions, and we are proud that Canada and Canadians are able to make these types of contributions. All these actions are important. Yet, addressing multi-ethnic conflict demands that there be creative ideas and policies, and a first step is a proper understanding of the importance and power of human rights in the modern world.

Old ideas need to be questioned, including the notion of the primacy of state sovereignty and territorial integrity. As Secretary-General Annan argued in September:

Strictly traditional notions of sovereignty can no longer do justice to the aspirations of peoples everywhere to attain their fundamental freedoms.... Massive and systematic violations of human rights — wherever they may take place — should not be allowed to stand.

Honourable senators, the international community must recognize that, with the end of the Cold War, the security of individuals, which includes their human rights, is becoming more important than the security of states. Today, it is no longer assumed that international law gives greater priority to state sovereignty and territorial integrity than to human rights or self-determination.

I submit, honourable senators, that following the protection of human rights as the first principle of international relations would go far toward preventing multi-ethnic conflict and encouraging greater democracy and peace.

We need to get beyond the sovereignty of states principle, which has dominated international relations up until now. We need to refocus on the principles of the Universal Declaration of Human Rights and the subsequently developed international treaties and conventions on human rights based on the universal declaration.

• (1650)

Honourable senators, unfortunately, we must acknowledge that states have, over the decades, often broken the undertakings contained in these human rights instruments. The United Nations High Commissioner for Human Rights, Mary Robinson, the former president of Ireland, admitted in a lecture on the eve of the fiftieth anniversary last year:

Count up the results of 50 years of human rights mechanisms, 30 years of multi-billion dollar development programs and endless high level rhetoric, the global impact is quite underwhelming.... This is a failure of implementation on a scale which shames us all.

Honourable senators, a first step in reclaiming the human rights pillar of international law must be the implementation of existing human rights standards; but the international community has not so far lacked legally binding human rights standards, only the political will to implement them. As the Human Rights High Commissioner Mrs. Robinson added:

The normative work is largely done. The international human rights standards are in place. The task for us all...is to implement them.

On motion of Senator Beaudoin, debate adjourned.

LIBRARY OF PARLIAMENT

MOTION TO AUTHORIZE STANDING JOINT COMMITTEE TO MEET DURING SITTINGS OF THE SENATE WITHDRAWN

On Motion No. 32:

That the Standing Joint Committee on the Library of Parliament have power to sit during sittings and adjournments of the Senate; and

That a message be sent to the House of Commons to acquaint that House thereof.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I ask that this motion be withdrawn from the Order Paper. The matter has been addressed by the adoption

of the first item under the heading "Reports of Committees" regarding the Standing Joint Committee on the Library of Parliament.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

MOTION TO AUTHORIZE COMMITTEE TO STUDY STATE OF HEALTH CARE SYSTEM—DEBATE ADJOURNED

Hon. Michael Kirby, pursuant to notice of December 6, 1999, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of the health care system in Canada. In particular, the Committee shall be authorized to examine:

- (a) The fundamental principles on which Canada's publicly funded health care system is based;
- (b) The historical development of Canada's health care system;
- (c) Publicly funded health care systems in foreign jurisdictions;
- (d) The pressures on and constraints of Canada's health care system; and
- (e) The role of the federal government in Canada's health care system;

That the Committee submit its final report no later than December 14, 2001; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

He said: Honourable senators, you have before you the terms of reference of a study the Standing Senate Committee on Social Affairs, Science and Technology wishes to undertake. These terms of reference have been unanimously approved by the committee members.

The fundamental purpose of the study is to recognize the significant changes about to occur in the health care system due to several factors, including changing demographics, innovations in both pharmaceuticals and technology, and the changing expectations of individual Canadians for their health care entitlement.

The members of the Standing Senate Committee on Social Affairs, Science and Technology are of the view that this is probably the most important and, equally, the most controversial social policy issue facing the country. The impact of costs on the health care system means that the current system is almost certainly not economically sustainable for the foreseeable future. The committee intends to undertake a series of studies that would all be linked by subject matter and by their logical progression upon predecessor studies. We want to provide a forum for debate on future health care policy in Canada in general and the role of the federal government in particular. We also hope to develop, over time, a series of policy recommendations for the federal government with respect to its role in the health care system.

If the Senate approves this reference, the steering committee will proceed in the month of January to develop a detailed work plan that will be reviewed by committee members and then by the Internal Economy Committee.

Hon. Consiglio Di Nino: Honourable senators, may I ask some questions? Has the chairman had any consultation with the Minister of Health on this subject? If so, could he tell us the results of those discussions?

Senator Kirby: Honourable senators, I have not discussed this with the Minister of Health and, frankly, I deliberately have not done so. Committee members were strongly of the view that this study should be undertaken. If I had consulted with the Minister of Health and been told that he thought it unwise to do this study, then I would be in a difficult situation. If this motion is approved and a work plan is developed, I will be happy to talk to officials. I have not talked to the minister nor indeed, in detail, to any officials within the department.

Senator Di Nino: Honourable senators, health issues cross jurisdictional borders between the federal government and the provincial governments. Is the intention of the chairman to cooperate with or coordinate with the provincial jurisdictions in planning the future deliberations of the committee?

Senator Kirby: Honourable senators, I am hesitating to answer because the focus of the study would be on the federal role in health matters. To that extent, it would be desirable to hold discussions with and hear testimony from provincial government ministers and officials. There is absolutely no intention on the part of the committee to enter into provincial jurisdiction. Our intent is to ask how current federal policy should be changed.

Senator Di Nino: Honourable senators, delivery of health care is principally the responsibility of the provinces and the territories. Health consumers are affected directly and mainly by the provinces. I wonder how this kind of study can be undertaken without some serious cooperation from those who deliver health services to the public. We will need to understand clearly how those roles may change in the future structure of health care.

Senator Kirby: Honourable senators, I agree completely with Senator Di Nino. I was responding to the phrasing of his first

question when I said the committee would hear witnesses from the provincial governments. Similar to my reasons for not approaching the Minister of Health prior to Senate approval of this study, we are careful not to be seen to be approving or passing a study reference for a Senate committee based on some veto of the provincial governments. On the other hand, the provincial governments and many other organizations are integral participants in these issues and we will want to consult them as the process evolves.

Senator Di Nino: Honourable senators, I do not wish to prolong this debate. Would I be creating a problem for the committee if I adjourned this debate until I can get some input from members of the Standing Senate Committee on Social Affairs, Science and Technology?

Senator Kirby: Honourable senators, there would only be a problem if the motion is not approved before the Christmas adjournment. If the Senate approves these terms of reference, we intend to work in January on a detailed work plan. I will not devote that effort if we do not have approval.

• (1700)

Senator Di Nino: I will not delay this. I wish to make another point, if I may.

We undertake many studies, and much committee work, with little or no debate in this chamber. It is my opinion that it is very healthy and valuable to have this kind of exchange. In so doing, we put on the record why we are doing it and what we expect of it. Hence, when we spend \$100,000 or more, the public is able, if they wish, to read the deliberations that have gone on in the chamber. That is a healthy thing.

Therefore, if you do not mind, we will deal with it next week and I will move adjournment of the debate.

Hon. Nicholas W. Taylor: Honourable senators, I thank Senator Kirby for introducing this idea because it is something that the Senate could do and for which it is well qualified. I also thank Senator Di Nino for raising a point that I had thought about; that is, that focusing on the provincial as well as federal is a very worthwhile thought. I also wish to mention that Senator Kirby's theory about not asking the health ministers for permission is a good one — after raising nine children who all used that system — not asking beforehand because it might be turned down, effectively. I am quite familiar with how it works and it does seem to work.

Honourable senators, I thought I would throw into Santa's grab bag another goody, after Senator Di Nino's intervention — which was a very worthwhile one; that is, the question of the interface between private and public, where the private and public systems can best work together. In our public system, there is always a certain amount of private concern, such as the doctor's office, if nothing else. If the committee has the time, it might consider looking at that interface. As honourable senators know, that is a subject of strong debate.

Senator Kirby: Honourable senators, may I say that, absolutely, that will be an issue that we will look at in some detail. Other than the fact that it is fairly obvious if you look at social policy issues facing the country, whether in fact the current health system is sustainable is really the question. That is really what prompted us to get into this. However, three weeks or a month ago, the Government of Alberta made a policy statement with respect to some private-sector hospitals that would be built in Calgary. My personal reaction on reading the statement from the Government of Alberta is that their proposal is absolutely consistent with the Canada Health Act. I say that in spite of the fact that there were some very emotional remarks against the entire Alberta proposal, remarks made by a number of people, including some in the other place. By the way, many of those who have remarked claim that the Alberta government's proposal is not consistent with the Canada Health Act.

It seems to me that, if we are to have a debate on health care policy, the debate at least ought to be based on facts.

I thank you for raising the private-sector issue. While I was thinking about the private-sector issue as one to put to the committee, what is more important is the emotional reaction that that proposal engendered. Therefore, the private-sector issue is one that we must look at. I would agree completely.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, at the risk of repeating myself ad nauseam, I must express concern over the fact that the Senate is being asked for authority to, in effect, give a blank cheque to a committee. I am not faulting the purpose of any study when I say this, because it applies to all requests by committees for studies that are quite elaborate, detailed, and as open-ended as this one. This study will last a year and a half, perhaps longer if, for valid reasons, an extension is granted. Senator Nolin has asked for a study that will last at least three years, without having a general work plan or a budget. What will this cost the Senate of Canada?

Again, honourable senators, I think we do things upside down. We give the committee authority, and then Internal Economy and others must scramble for the funds, the personnel and whatever else is needed. The correct way to proceed would be for a committee first to determine its budget and its terms of reference, as well as the time frame within which to complete the study. I, for one, would feel more comfortable doing it that way, rather than just saying, "Go ahead and do it," having given no consideration to budget and time frame.

Hon. Colin Kenny: Honourable senators, I understand the honourable senator's position; however, I should remind the chamber that it was just a few months ago that Senator Lynch-Staunton put a reference to this chamber for a study of NATO that ended up costing well over \$100,000. Did the honourable senator have a budget at that time and did he put it before the chamber when he made that request?

Senator Lynch-Staunton: No, I did not.

Senator Di Nino: Honourable senators, I do not believe that that is an appropriate question. I understand Senator Lynch-Staunton to be saying that we should review our current process, with a view to determining whether we can improve on it, by at least presenting some details as to costs before we approve the study. By not doing so, we could be approving a study that will in the end cost \$40 million, which we do not have. I think the honourable senator's comments are valid.

I hope to engage honourable senators, at least on this side of the chamber, who are members of the Standing Senate Committee on Social Affairs, Science and Technology on that issue as well, and hopefully we can have an open discussion on it next week. I do not wish to stifle debate, but I should be pleased to move the adjournment, unless someone else wishes to speak.

Hon. Sharon Carstairs: Honourable senators, I find myself in agreement with both Senator Lynch-Staunton and Senator Kenny, despite the fact they are coming from diametrically opposed positions. Let me tell you why.

The *Rules of the Senate* do not allow a committee to ask for money before they have had the approval of their terms of reference. I happen to agree with Senator Lynch-Staunton that we are doing things backwards, that before we grant permission to a committee to undertake a study we should have some concept of what that study will cost. That is exactly why, when I made my request — I think it was two weeks ago — I gave the Senate a work plan and I told them the approximate cost of that work plan.

Incidentally, that budget went to the Internal Economy Committee this morning, where it was cut in half. Internal Economy were of the view — a view that I happen to support — that they did not have a broad enough idea of what other committees would come forward with additional requests for information; therefore, they decided they would do it in a step-by-step projection of the budgetary amounts.

What we have identified this afternoon, it seems to me, is a problem with our rules and procedures. Senator Kirby has presented, on behalf of the committee, a request for a special study, which every single member of that committee unanimously supported. He was, therefore, in a position where he needed to come before this Senate, according to our current rules, and present that and get permission before he could then prepare a budget to go to the budgetary subcommittee and eventually to the Internal Economy Committee.

I do not disagree with the position that Senator Lynch-Staunton has put forward. In fact, I concur with him — and at another stage in my life it is something about which we had some discussions — because I think that is the way it should be done. Senator Kenny is absolutely correct: That is not the way we have done it in the past, and it is not the way the rules, quite frankly, indicate how it should be done.

Senator Kenny: Honourable senators, I do not see great fault in the way the rules are written, frankly. I do not believe that the Internal Economy Committee should be deciding for us what studies or inquiries go ahead. It is their job to decide the level of funding and whether the funding is appropriate. However, it is the job of this body to decide if it is an appropriate study or an appropriate course of inquiry.

• (1710)

I have no difficulty with someone following Senator Carstairs' model where they give a general estimate of what they think the study will cost. Essentially, I see a two-step process. Frankly, if both switches are not turned on, the study will not go forward.

The first step is obtaining approval from the Senate. The next step is to go to the Internal Economy Committee to obtain what one hopes is appropriate funding.

If the chairman does not receive approval here, there is no need to go to Internal Economy. If he receives approval here goes to Internal Economy and they do not have the funds to properly fund the study, that means the committee is hamstrung and cannot go ahead. I suppose the chairman could always come back here and appeal the report of the Internal Economy Committee, which is within the rights of any senator.

I do not think it is wrong to start here. After all, this is the place where everyone should know what is going on. I do think it is wrong to start with a committee and have them veto the project.

On motion of Senator Di Nino, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, December 13, 1999, at 4 p.m.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Monday, December 13, 1999, at 4 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (2nd Session, 36th Parliament)
 Thursday, December 9, 1999

GOVERNMENT BILLS
 (SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	none			
				Foreign Affairs	99/12/09	none			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs					

GOVERNMENT BILLS
 (HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	none			
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02	99/12/06	Subject-matter 99/11/24 Social Affairs, Science and Technology	99/12/06 99/12/07	 2	99/12/09		
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08		

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04							
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	---	---	---	99/12/08		

CONTENTS

Thursday, December 9, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		Income Tax Conventions Implementation Bill, 1999 (Bill S-3)	
Ontario		Report of Foreign Affairs Committee. Senator Stollery	427
Regional Restructuring Legislation—Proposal to Declare Ottawa Officially Bilingual—Refusal by Premier. Senator Gauthier	423	Internal Economy, Budgets and Administration	
Fisheries and Oceans		Second Report of Committee Presented. Senator Rompkey	428
Viability of West Coast Salmon Fishery—Need for Emergency Help—Hunger Strike by Dan Edwards. Senator Carney	423	Scrutiny of Regulations	
Médecins du Monde		First report of Joint Committee Presented. Senator Hervieux-Payette	428
Senator Ferretti Barth	424	Child Custody and Access	
International Day of Human Rights		First Report of Special Joint Committee Tabled. Senator Pearson	428
Senator Andreychuk	424	Foreign Affairs	
Fisheries and Oceans		Notice of Motion to Authorize Committee to Extend Date of Final Report on Study of Changing Mandate of the North Atlantic Treaty Organization. Senator Stollery	428
Closure of Fraser River Sockeye Fishery—Program to Refund Salmon Licence Fees—Hunger Strike by Dan Edwards. Senator Perrault	425	Ontario	
Ontario		Regional Restructuring Legislation—Refusal to Adopt Recommendation to Declare Ottawa Officially Bilingual— Notice of Inquiry. Senator Poulin	429
Regional Restructuring Legislation—Refusal to Declare Ottawa Officially Bilingual—Position of the Fédération des communautés francophones et acadienne. Senator Comeau ...	425	The Senate	
Regional Restructuring Legislation—Refusal to Declare Ottawa Officially Bilingual. Senator Kenny	425	Notice of Motion to Uphold Royal Assent Proceedings. Senator Cools	429
Civil International Space Station Agreement Implementation Bill (Bill C-4)			
Reasons for Abstention During Clause-by-Clause Study. Senator Grafstein	426	QUESTION PERIOD	
Senator Lynch-Staunton	426	Transport	
Visitors in the Gallery		Divestiture of Public Wharves—Assignment of Wharf on Thetis Island to Indian Band on Kuper Island. Senator Carney	429
The Hon. the Speaker	426	Senator Boudreau	430
ROUTINE PROCEEDINGS		National Defence	
Business of the Senate		Problems with Engines of Patrol Frigates. Senator Forrestall	430
A Senator's Guide to Disability Tabled. Senator Robertson	426	Senator Boudreau	430
Quebec		Replacement of Sea King Helicopter Fleet— Timing of Announcement. Senator Forrestall	430
Linguistic School Boards—Amendment to Section 93 of the Constitution—First Report of Special Joint Committee Tabled. Senator Pépin	426	Senator Boudreau	430
Air Canada		Social Affairs, Science and Technology	
Order in Council Issued Pursuant to the Canada Transportation Act to Allow Discussions on Private Sector Proposal to Purchase Airline—Second Report Presented. Senator Bacon	427	Personal Information Protection and Electronic Documents Bill—Opposition from Government of Alberta. Senator Roche	431
Civil International Space Station Agreement Implementation Bill (Bill C-4)		Senator Kirby	431
Report of Committee. Senator Stollery	427	Environment	
		Alberta—Announcement to Process Imported Hazardous Waste at Swan Hills Treatment Centre—Government Policy. Senator Spivak	431
		Senator Boudreau	431

	PAGE
Agriculture and Agri-Food	
Plight of Western Grain Farmers—Response by Government.	
Senator Gustafson	432
Senator Boudreau	432
Delayed Answers to Oral Questions	
Senator Hays	433
Justice	
Cost of Gun Registration Program—Responsibility of Minister.	
Questions by Senators Tkachuk and Stratton.	
Senator Hays (Delayed Answer)	433
National Defence	
Replacement of Sea King Helicopter Fleet—Request for	
Copy of Statement of Requirements.	
Question by Senator Forrestall.	
Senator Hays (Delayed Answer)	434
<hr/>	
Visitor in the Gallery	
The Hon. the Speaker	434
<hr/>	
ORDERS OF THE DAY	
Personal Information Protection and	
Electronic Documents Bill (Bill C-6)	
Third Reading, Senator Kirby	434
Speech from the Throne	
Motion for Address in Reply—Debate Continued.	
Senator Gustafson	436
Medical Decisions Facilitation Bill (Bill S-2)	
Second Reading—Debate Continued, Senator Christensen	438
Library of Parliament	
First Report of Joint Committee Adopted, Senator Robichaud ...	438
Official Languages	
First Report of Joint Committee Adopted, Senator Losier-Cool ..	439
Review of Anti-Drug Policy	
Motion to Form Special Senate Committee—Debate Continued.	
Senator Kenny	440

	PAGE
Personal Information Protection and	
Electronic Documents Bill (Bill C-6)	
Motion to Instruct Social Affairs, Science and Technology	
Committee to Divide Bill into Two Bills—Order Withdrawn.	
Senator Kinsella	440
Senator Hays	440
Religious Freedom in China in Relation to United Nations	
International Covenants	
Inquiry—Debate Continued, Senator Di Nino	441
The Estimates, 1999-2000	
Motion Authorizing National Finance Committee to Study	
Estimates—Motion in Amendment—Order Stands.	
Senator Corbin	443
La Francophonie Summit	
Inquiry—Debated Adjourned—Order Stands, Senator Hays	443
Senator Kinsella	443
Senator Corbin	443
Senator Carstairs	443
Senator Lynch-Staunton	444
Human Rights and Multi-Ethnic Conflicts	
Inquiry—Debate Adjourned, Senator Kinsella	444
Library of Parliament	
Motion to Authorize Standing Joint Committee to Meet	
During Sitzings of the Senate Withdrawn, Senator Hays	445
Social Affairs, Science and Technology	
Motion to Authorize Committee to Study State of Health	
Care System—Debate Adjourned, Senator Kirby	445
Senator Di Nino	446
Senator Taylor	446
Senator Lynch-Staunton	447
Senator Kenny	447
Senator Carstairs	447
Adjournment	
Senator Hays	448
Progress of Legislation	i



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 20

OFFICIAL REPORT
(HANSARD)

Monday, December 13, 1999



THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Monday, December 13, 1999

The Senate met at 4:00 p.m., the Speaker in the Chair.

Honourable senators then stood in silent tribute.

Prayers.

THE LATE HONOURABLE R. JAMES BALFOUR, Q.C.

TRIBUTE

The Hon. the Speaker: Honourable senators, out of respect for our deceased colleague the Honourable Senator Balfour, I ask that you all rise and join me in a moment of silence.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, as a mark of respect for our former colleague Senator Balfour, I move that the Senate do now adjourn.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS
Monday, December 13, 1999

	PAGE	PAGE
The Late Honourable R. James Balfour, Q.C.		
Tribute	449	



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION • 36th PARLIAMENT • VOLUME 138 • NUMBER 21

OFFICIAL REPORT
(HANSARD)

Tuesday, December 14, 1999

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Tuesday, December 14, 1999

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE R. JAMES BALFOUR, Q.C.

TRIBUTES

Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, only last week I spoke with our dear colleague Jim Balfour whose death on Sunday night has saddened us all. He was, as he had been during his entire life — a life marked by more than one personal tragedy — stoic, forceful and, in particular, optimistic. He died after a long illness, one that involved difficult and painful treatments, yet his will to live never faltered. At no time did I hear him complain or even show signs of discouragement, even when he knew that all medical interventions had been exhausted.

Others can speak more knowledgeably of his laudable career than I, his career both private and public. What struck me about him are the personal characteristics that made him such a fine colleague and a friend. Loyal, devoted and committed, he was always available when his vote was needed, no matter what pressing personal obligation might be disrupted, and always regretful when illness prevented him from attending to Senate business. How many times was he told that his health came first and how many times did he not listen?

Only last year, during a period of remission, when his cancer seemed to have been beaten, he agreed with tremendous enthusiasm to assume the responsibility of chairing the Veterans Affairs Subcommittee upon the retirement of Senator Phillips. He believed that in that role he could help to improve the conditions of those who had served their country. He always regretted that fate intervened so brutally.

In caucus, as in this chamber and in committee, his interventions were always listened to with great attention as his wisdom and logic allowed any discussion and debate to take on a special significance. To be wise is to have experience and knowledge and to judicially apply them. So did Jim, whether in Parliament as a distinguished member or in his home as a kind friend. There may be some consolation in the fact that the grief felt today is shared by some, but it does not reduce the immensity of our loss. To his family, I offer my heartfelt sympathy.

Hon. Dan Hays (Deputy Leader of the Government):

Honourable senators, I mourn with other colleagues the loss of Senator Jim Balfour. Senator Balfour was a friend of mine, as he was of many of you. I got to know him best when we served

together on the Standing Senate Committee on Energy, the Environment and Natural Resources. For many of the years that I was chair of the committee, he was the deputy chair. I came to appreciate Jim Balfour and the incredible life experience he brought to this chamber from his work as a lawyer, a businessman, a member of Parliament and as an honourable senator. By virtue of that life experience, he could get to the heart of a problem and make an enormous contribution to the good governance of Canada through the Senate.

I did not serve with Senator Balfour in this capacity, but I did observe him in his role as chair of the subcommittee looking into issues of national defence, particularly regarding Canada's peacekeeping role in the world. In 1993, the committee he chaired tabled a report in this place that was absolutely prescient. He identified issues that, had they been addressed then, would have avoided many of the problems our peacekeeping efforts have encountered in recent years.

Senator Balfour loved his family. I know that from my friendship with him and from our many discussions during the illness of his wife and during important family events, including some tragic ones. We will miss Senator Balfour, his common sense and his vigour. I join with honourable senators in extending my deepest sympathy to his family.

Hon. Lowell Murray: Honourable senators, Jim Balfour and I had been friends for 38 years. We came to the Senate on the same day 20 years ago this fall. He was my seatmate. To reflect on his life and death is something of a meditation on courage and forbearance.

In 1958, at the age of 30, Jim Balfour lost his only brother to a long and painful illness. In 1990, Jim and his wife, Jane, lost their youngest son tragically. In 1994, Jane died after a prolonged and debilitating illness. In 1996, Jim received from his physicians his own deadly prognosis.

His was a gifted and successful, if much afflicted, family. His father was a member of the Supreme Court of Saskatchewan. Jim carried on in the Regina law firm that bore the Balfour name. He became a businessman and corporate director. He was a generous volunteer and then went into public life. He served seven years in the House of Commons and 20 years in the Senate.

Far from being self-absorbed and never, ever self-pitying, his attention to the very end was on his duty and his interests. To the inquiries of his friends about his health he was completely candid and realistic. Then he would turn the conversation to the issues that occupied his mind and his time. In one such conversation

I had with him recently, it was the state of Canada's military reserves, the anger in rural Saskatchewan, the war museum in Ottawa and, of course, the prospects of the federal Tory Party. He bore all his troubles casually, all his responsibilities seriously and with exemplary integrity. A truly honourable gentleman, the example of his life and death is a proud legacy to his family, friends and colleagues.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to add my condolences to the family of Senator Balfour.

When I arrived in Regina in 1976 to take up my position on the bench, I had already known of the Balfour family. One cannot walk the streets of Regina and not run into some landmark where that family has added its name and mark. I learned about Senator Balfour indirectly from the good works that had been left by him. He was not a man who stood up and claimed personal account for his achievements. Rather, he was more the man in the background who took pride in the issues that were important to him.

In the profession, Jim Balfour had a quiet manner. He was always well prepared. He was well reasoned and well respected in the Saskatchewan Bar. Younger lawyers who had difficulties could go to him quietly and he would certainly make time for them; that is not always the case in our profession. He would not only tell them how to handle the case but he would explain the importance of looking at the broader issues, the deeper issues and the moral issues in any case before the court. He had a respect for the law that was not equalled by many in the province.

Senator Balfour was also known for his political deeds in Saskatchewan. Personally, having met him, I wondered how he must have gone door to door because he certainly did not have the personality and the exuberance one often associates with politicians. Yet as I got to know Regina, a city which was not my home, I realized that his quiet concern for virtually every issue was important to the people of his city and his province. He would find a way to make known his views on an issue and seek a solution that would be of benefit to the community. I do not think there was an issue on which he did not have a quiet hand. He would not take the presidency or the most public position, but always he would be in the backroom giving advice. He gave the kind of leadership that marks someone as a statesman and not just a politician. With him, the two were synonymous.

Senator Balfour was very influential in the city of Regina. Working in a smaller community can be difficult when great funds are needed and great issues must be tackled. His quiet hand, again, was on many of the community's services. Therefore, he touched a broader community, those who normally would not have been associated with Senator Balfour and who would not have been known here. Those of us from Regina can go to many of the community services and talk to the people and find that somewhere, again in a backroom, Senator Balfour had his hand in making the world of the average citizen in Regina a little better.

Senator Balfour will be missed but his good works will live on. Many in Regina knew of his illness and privately hoped that he would overcome it one more time. However, the signal to many of us was when he went to his family and started documenting their history in Saskatchewan, again in a quiet and charming way. We knew this was not the man who always seemed to look to the future, and many of his friends realized he was preparing for the inevitable.

Honourable senators, Jim Balfour will be remembered, and I hope his family will find some consolation in the works he has left behind.

Hon. David Tkachuk: Honourable senators, I rise, too, on hearing of the death of Jim Balfour. A few things always happen upon being appointed to the Senate. One is that you get to meet people whom you have heard about, and Jim Balfour was one of those people.

• (1420)

Jim did something that was a real political accomplishment in Saskatchewan — he won a seat for the Conservative Party in Regina. For those honourable senators who do not know Regina, John Diefenbaker was asked by his campaign manager during the campaign of 1958 what should be done in the campaign in Regina, and he said, "Drop a bomb on it." It is known to us in the political business as "Red Square." Every left winger in Saskatchewan is gathered in Regina. Jim Balfour did something that few Conservatives have been able to do. I believe that when the people of Regina gave him a victory in that election, they showed what they thought of Jim Balfour. I believe that victory brought him to the attention of Mr. Clark, who appointed him to the Senate in 1979.

I did not know Jim that well, although I had heard of him. One of the good things that happened to me was that I was able to get to know him better while I served in the caucus with him. I admired his integrity and his honesty.

Honourable senators, I will reveal something about the caucus that I have attended for six years, and that is Jim Balfour's ability to cut to the chase. He was a man of few words, but he was always on the mark and his advice was highly respected by all of us. I will miss that advice.

On behalf of my family and on behalf of the city from which I come, I can say that Jim did a lot for our province. He was always on the right side of the issues, and we will miss him. To his family, I extend our deepest condolences and sympathy.

The Hon. the Speaker: Honourable senators, I ask you to rise and join me in a moment of silence, in memory of our departed colleague and friend the Honourable Senator James Balfour.

Honourable senators then stood in silent tribute.

SENATORS' STATEMENTS

MANITOBA

CROSS LAKE FIRST NATION—HIGH RATE OF SUICIDE

Hon. Sharon Carstairs: Honourable senators, I should like to bring to the attention of the Senate a tragic condition in existence in Cross Lake First Nation, a reserve located in northern Manitoba, south of Thompson.

Honourable senators, in the last five months, seven residents in a community of 4,000 have taken their own lives. In addition, 100 other residents have attempted suicide in this five-month period. These statistics are horrendous and cannot be ignored.

This story has additional alarming aspects. Normally, initiatives directed against suicides in communities are directed toward young men because they have always been the principal group in danger of suicide. However, at Cross Lake First Nation, the majority of the people attempting suicide have been between the ages of 20 and 30 and of both genders.

The youngest attempt in the last several months was by a nine-year-old. It is hard for me to judge the despair that would encompass a nine-year-old such that he would put a gun to his head. It is also hard to imagine that despair in a 59-year-old grandmother.

Honourable senators, this crisis must be addressed. At the end of September, a 24-hour crisis line was established. I can only assume that this crisis line has been effective in keeping the numbers higher on the attempted suicide side rather than on the successful side. However, that funding of \$15,000 runs out soon. Clearly, we must ensure that additional funding is provided in order that this crisis line remains in effect.

Far more important, honourable senators, we must address the systemic problems in this community leading to these horrendous results.

NEW BRUNSWICK

BILL TO CREATE HOLOCAUST MEMORIAL DAY

Hon. Erminie J. Cohen: Honourable senators, on December 9, 1999, a significant event occurred in the New Brunswick legislature. I rise to share my elation with you.

A private member's bill was introduced by Tory MLA Eric MacKenzie to set aside one day every year as Holocaust Memorial Day. When the legislature approves the bill this week, my home province of New Brunswick will become the third province in Canada to proclaim a day to remember the evil of which mankind is capable — the systematic murder of millions of men, women and children — and to remember the thousands of soldiers, men and women, who fought overseas to defeat the killing machine of the Third Reich and liberate the death camps.

The first Holocaust Memorial Day in New Brunswick will be observed on May 2, 2000. The date of the memorial day will change each year depending on the Jewish lunar calendar and will coincide with Yom Hashoah, a commemorative day observed around the world each year since 1951.

The Province of Ontario enacted similar legislation last year and the Government of Prince Edward Island passed a Holocaust Memorial Day law last week. To all of these provinces, I say thank you.

In tabling the legislation, Mr. MacKenzie said:

At the end of the most violent century in human history, we share an obligation to the new millennium to mark and learn the lessons of history.

As George Santayana wrote:

Those who cannot remember history are doomed to repeat it.

The timing of this motion on December 9 was appropriate as the international community marked two important human rights anniversaries. December 9 is the fifty-first anniversary of the United Nations Genocide Convention that made genocide a violation of international law, and December 10 marks the fifty-first anniversary of the proclamation of the Universal Declaration of Human Rights.

I am proud of the new legislation by the Lord government acknowledging one of the grossest violations of human rights. The memory of the Holocaust should provide the impetus for active opposition to racism and hatred. We only have to scan the newspapers to read each day of incidents of evil that underscore the dark side of human existence.

Honourable senators, because time stills the voices of the survivors, it is incumbent on us to speak out on the lessons of the Holocaust as parliamentarians, as community leaders, and, indeed, as members of the human race.

If I may indulge in a moment of partisanship, honourable senators, you will note that all three provinces proclaiming Holocaust Memorial Day are governed by the Progressive Conservative Party. I hope that the federal government will soon follow suit and proclaim Holocaust Memorial Day a national day of remembrance.

● (1430)

SPECIAL OLYMPICS

OTTAWA—WINTER GAMES 2000

Hon. Janis Johnson: Honourable senators, I wish to draw your attention to a particular event today because we may be leaving here this week. I do so as a member of the Canadian Special Olympics Foundation and a long-time volunteer.

The event of which I speak will last for five days, starting on Tuesday, January 25, 2000, when the City of Ottawa and Canada's capital region will host the Canadian Special Olympics Winter Games. Approximately 600 athletes and 200 coaches from across Canada will participate in the games. An estimated 600 parents and 1,200 volunteers will also come to support the athletes.

The Special Olympics have come to Ottawa once before, in 1981, when we hosted the summer games. This time, of course, it will be the winter events. We will be seeing competition in such sports as alpine skiing, figure skating, curling and snowshoeing.

Many of us have great regard for the cause of the Special Olympics, but not everyone realizes that these games are high-calibre sporting events that, for sheer drama, could compete with any athletic competition. This was the intent of Dr. Frank Hayden of McMaster University, who dedicated his life to the cause of physical fitness. You may remember his famous "5BX program," which he developed with the Royal Canadian Air Force.

Dr. Hayden took issue with the popular assumption that children, and later adults, with mental handicaps were unable to participate in sport and recreation programs. Working with a group of children on an intense fitness program, Dr. Hayden proved that the mentally handicapped could develop high enough skills to compete as international athletes. He went on to found the Special Olympics. The Kennedy family, in particular Eunice Kennedy Shriver, took the leadership in the United States. The late Harry "Red" Foster was the Canadian who took this idea and created our Canadian Special Olympics.

The games were first held in 1968 at Soldier Field in Chicago and now the Special Olympics have over 1 million participants in 140 countries. Athletes benefit from the Special Olympics in three ways: Their physical condition improves dramatically, they gain self-confidence and they learn important social skills. All of these are enhanced by the appreciation and support of an audience.

I would ask all honourable senators to try and attend one of the Special Olympics events during the week of January 25. You will be most impressed by the dedication and heroism of our athletes. I have attended many Special Olympics events nationally and internationally. For me, these games symbolize what sport can do for individuals and what growth is possible in the human body and spirit when you truly try, as do our athletes.

The Special Olympics oath says it well. It is read at the beginning of each games by an athlete who then lights the Olympic flame. It states:

Let me win, but if I cannot win let me be brave in the attempt.

Honourable senators, I hope to see you at the games.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the gallery of our colleague and recently retired friend the Honourable Senator Marian Maloney.

[Translation]

OFFICIAL LANGUAGES

SECOND REPORT OF STANDING JOINT COMMITTEE PRESENTED

Hon. Rose-Marie Losier-Cool, Joint Chair of the Standing Joint Committee on Official Languages, presented the following report:

Tuesday, December 14, 1999

The Standing Joint Committee on Official Languages has the honour to table its

SECOND REPORT

The Standing Joint Committee on Official Languages adopted the following resolution in committee on December 7, 1999:

BE IT RESOLVED, — That, in the opinion of the Standing Joint Committee on Official Languages of the Senate and the House of Commons of Canada, the Ontario legislature should determine, by way of legislation, that the City of Ottawa, as Canada's capital, has two official languages, English and French.

The Committee agreed that, while matters concerning municipalities are within the jurisdiction of the provinces, Ottawa, as the capital of Canada, presents a special case and should reflect the bilingual nature of Canada through its two official languages, English and French.

Respectfully submitted,

ROSE-MARIE LOSIER-COOL
Joint Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Losier-Cool, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CIVIL INTERNATIONAL SPACE STATION AGREEMENT IMPLEMENTATION BILL

REVISED REPORT OF COMMITTEE

Hon. Peter A. Stollery: Honourable senators, with leave of the Senate, I wish to present a revised version of the fifth report of the Standing Senate Committee on Foreign Affairs on Bill C-4, the Civil International Space Station Agreement Implementation Act.

For technical reasons, the observations that should have been included with our report presented Thursday, December 9, 1999, were inadvertently omitted.

The Hon. the Speaker: Is leave granted, honourable senators? [English]

Hon. Senators: Agreed.

Tuesday, December 14, 1999

The Standing Senate Committee on Foreign Affairs has the honour to present its

REVISED FIFTH REPORT

Your Committee, to which was referred Bill C-4, to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts, has examined the said Bill in obedience to its Order of Reference dated December 1, 1999, and now reports the same without amendment, but with the following observations:

The Committee has two specific concerns that it wishes to see addressed. First, the Committee is keenly interested in perusing (a) the regulations deemed by the Governor in Council to be required to carry out the purposes of the Act and to give effect to the above-mentioned Agreement, and (b) the Code of Conduct that will establish the chain of command affecting the astronauts on the space station. The Committee, concerned about the insufficient scope of the provision for notification to Parliament contained in Clause 10 of Bill C-4, requests that the Government of Canada, through the Canadian Space Agency, refer both the said regulations and the Code of Conduct directly to the Committee immediately following their initial publication in *The Canada Gazette*.

Second, Clause 11 (2.34) fails to contain a definition of the term "Canadian flight element" employed in the English version of Clause 11 (2.31) (b). The Committee is of the view that there is a need for new wording within the English

version of Clause 11 (2.31) (b) that would remove the existing ambiguity between the terms "flight element provided by Canada" and "Canadian flight element" and, moreover, ensure a consistency between the English and French versions of the Bill. The Government of Canada, in the omnibus bill that is anticipated shortly, should clarify Clause 11 (2.31) so as to alleviate the Committee's concerns.

Respectfully submitted,

PETER STOLLERY
Chairman

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, December 15, 1999, at 1:30 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

NISGA'A FINAL AGREEMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-9, to give effect to the Nisga'a Final Agreement.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Jack Austin: With leave, at the next sitting of the Senate.

The Hon. the Speaker: Is leave granted, honourable senators?

Some Hon. Senators: No.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in the normal course, a notice of two days is required before we can proceed with debate at second reading stage, and I understand that leave has not been granted to abridge that period. Accordingly, this matter should be placed on the Orders of the Day for second reading on Thursday next.

The Hon. the Speaker: There being no agreement, this bill will be placed on the Order Paper for second reading on Thursday next, December 16, 1999.

Hon. Marcel Prud'homme: Honourable senators, if it is the wish of this house, perhaps we could give unanimous consent to dispose of this bill that has been studied so extensively in the other place?

The Hon. the Speaker: I asked whether leave was granted and the reply was no; therefore, it is not a debatable question.

Is it agreed, honourable senators, that the bill be placed on the Orders of the Day for second reading on Thursday next, December 16, 1999?

Hon. Senators: Agreed.

Motion agreed to and bill placed on the Orders of the Day for second reading on Thursday next, December 16, 1999.

[Translation]

APPROPRIATION BILL NO. 2, 1999-2000

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-21, granting to Her Majesty certain sums of money for the Public Service for the financial year ending March 31, 2000.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[English]

• (1440)

CANADIAN NATO PARLIAMENTARY ASSOCIATION

DELEGATION TO 1999 ANNUAL SESSION HELD IN
AMSTERDAM, THE NETHERLANDS—REPORT TABLED

Hon. Bill Rompkey: Honourable senators, I have the honour to table the third report of the Canadian NATO Parliamentary Association which represented Canada at the forty-fifth annual session held in Amsterdam, The Netherlands, November 11 to 15, 1999.

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

NOTICE OF MOTION TO AUTHORIZE ABORIGINAL PEOPLES
COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY

Hon. Charlie Watt: Honourable senators, I give notice that on Wednesday next, December 15, 1999, I will move:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 24, 1999, the Standing Committee on Aboriginal Peoples be authorized to examine and report on the recommendations of the *Royal Commission Report on Aboriginal Peoples* (Sessional paper 2/35-508.) respecting Aboriginal governance and, in particular, seek the comments of Aboriginal peoples and of other interested parties on:

1. the new structural relationships required between Aboriginal peoples and the federal, provincial and municipal levels of government and between the various Aboriginal communities themselves;
2. the mechanisms of implementing such new structural relationships; and
3. the models of Aboriginal self-government required to respond to the needs of Aboriginal peoples and to complement these new structural relationships;

That the committee be empowered to submit its final report no later than February 16, 2000, and that the committee retain all powers necessary to publicize the findings of the committee contained in the final report until February 29, 2000, and

That the committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

[Translation]

QUESTION PERIOD

INTERGOVERNMENTAL AFFAIRS

REFERENDUM CLARITY BILL—APPLICATION OF TERMS

Hon. Pierre Claude Nolin: Honourable senators, clause 2.(2) of the bill on the clarity of the referendum process sets out factors to be considered by the House of Commons in determining whether a clear majority of Quebecers has expressed a will to secede. You will remember that in the last referendum 49.6 per cent of Quebecers voted in favour of a sovereign Quebec in a partnership with the rest of Canada. Conversely, 50.4 per cent of Quebecers were opposed to that option.

If we take a closer look at these percentages on the basis of ethnicity, data provided by Statistics Canada and results by areas, we come to the conclusion, which is shared by just about every expert, that 62 per cent of francophones voted in favour of sovereignty, whereas 95 per cent of anglophones and 98 per cent of allophones voted against the Parti Québécois' option.

Considering that francophones account for the majority of Quebecers and that the anglophone and allophone votes are concentrated in certain defined areas of the province, could the minister tell us if, in the event of a Yes victory by separatists — something that does not at all appeal to me — the ethnic and geographical distribution of the vote would be taken into account in determining the clarity of the majority of voters who will have supported that option?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the issues are twofold, as the Supreme Court clearly pointed out. First the question should be clear, and the bill speaks to that issue very well. The second issue is what is considered a clear majority, and that is the matter to which the honourable senator refers.

The court, in its deliberations and in its judgment, was very careful not to attempt to define in any detail exactly what factors would be taken into account well in advance of the vote.

The bill makes reference to certain factors that are to be considered. Whether they will be the only factors considered will be relevant to those circumstances at the time. The bill is very careful not to prejudge or outline precisely at what point the bar might be set, as tempting as that might have been in some circumstances. The bill in that respect is clearly consistent with the judgment of the Supreme Court.

[Translation]

Senator Nolin: Honourable senators, that is why I gave percentages in my preamble. No expert has contested the fact that the majority of Quebec francophones, 62 per cent, voted Yes to the Parti Québécois question in the 1995 referendum. On the other hand, 95 per cent of anglophones and 98 per cent of allophones voted No.

Is your bill not assigning lesser importance to the vote of the francophone majority than to the anglophone and allophone minority?

[English]

Senator Boudreau: Honourable senators, there is no attempt in the legislation to place more value on one element of the vote than on another. Certain conditions will be reviewed in assessing the quality of the majority. Some of those conditions are set out in the legislation while others are not. That is due to the fact that

one may not be able to anticipate at the time precisely what considerations will come into play.

However, the bill clearly provides for open consideration of all the factors. The bottom line is that the people of Quebec, regardless of their background, must speak clearly, with a clear majority, on their intentions, and that view must be expressed as a result of a clear question having been put to them.

[Translation]

Senator Nolin: Honourable senators, would a clear majority not mean a majority of each ethnic component of the population of Quebec?

Senator Finestone: Honourable senators, am I a second-class citizen?

[English]

Senator Boudreau: Honourable senators, I would resist, as a matter of principle, determining in advance the specific levels required to establish that question. The legislation goes to great pains to follow the Supreme Court decision, and it states that one must look at the circumstances which exist at the time of a future referendum, and the political actors of the day will do that. Hopefully, that will never happen. However, that is not the point.

● (1450)

Concerning the type of requirement that the honourable senator suggests, I could not give him an indication, although I would be surprised if that were to be the case at the time. I must repeat, the legislation clearly follows closely the rationale of the Supreme Court decision, which says that, at the time, the political actors will address the question of a sufficient majority. The proposed legislation very specifically outlines some of the factors that will be taken into account.

[Translation]

Hon. Jean-Claude Rivest: Honourable senators, as far as national unity is concerned, I will remind the minister that, in the recent history of Canada, the only effective way of combating Quebec separatism has been for the Government of Canada to have a vision for the future regarding relations between Quebec and Canadian society as a whole. I refer in particular to the time of Lester B. Pearson or Brian Mulroney, when support for separatism dropped by 20 or 25 per cent.

Historically, in Quebec there have been two ways in which the sovereignist or separatist parties have tried to win Quebecers over to the idea of independence: the referendum approach, to gain a Yes majority in answer to the question, and the plurality of seats won in the National Assembly in an election, as in 1966 with the RIN, and in 1970 and 1973 with René Lévesque's Parti Québécois. Using the later option, a sovereignist government would have declared Quebec's sovereignty. The honourable senators will probably remember that. I am not making it up.

The current government bill addresses only the referendum approach. What would become of Canada's unity if a sovereignist party in Quebec went back to what René Lévesque was proposing in the early 1970s, namely that the election of a clearly sovereignist PQ government would mean that a simple majority of members in the National Assembly could set in motion the province's separation from the rest of Canada? The bill is silent on this.

As an illustration of how preposterous the federal government's intervention in this debate is, there is the first scenario where the Parti Québécois would announce that the election of a sovereignist government gave it a mandate to declare independence, as was the case in 1970 and 1973. They did not win, but that was their program.

Under this scenario, would the federal government pass a bill defining the nature of the Parti Québécois' election platform in order to clarify its sovereignty option? Would the federal government propose that a bill be passed so that, if a separatist government were elected, 50 per cent plus one would not be enough to change the parliamentary majority? That is exactly what the government is now doing with this bill on the clarity of the referendum process when it indirectly imposes the question and implies in the bill that 50 per cent plus one is not a legitimate majority.

You will understand why the Government of Canada's position is not accepted by all stakeholders in Quebec and why it is preposterous. Why does the Canadian government not express its opinion, as it is entitled to do? As the primary guardian of national unity, it is entirely within its rights to do so. But it must leave it to the National Assembly, and particularly to the Liberal Party of Quebec, the voice of the federalists in Quebec, to argue about the clarity of the question and about what would constitute a majority. This would be a far greater service to the federalist, Canadian unity option.

Once again, I ask the Leader of the Government in the Senate how the Canadian government would view it if the Parti Québécois decided to forget about the referendum approach and told Quebecers that, by electing the PQ, which is a sovereignist party, to power, they were giving it a mandate to democratically set in motion the move toward sovereignty?

[English]

Senator Boudreau: Honourable senators, the honourable senator's question is rather complex both in its length and in its nature.

The Premier of Quebec has served notice that he intends to bring on another referendum when winning conditions permit. Surely, as responsible citizens and as a responsible federal government, we must respond to that statement. What the government is suggesting is simple and obvious. We have a

responsibility take the Premier of Quebec at his word. If he comes forward with another referendum, we must ensure that he does so with a clear question and understands that, before he can act, he must achieve a clear majority. I cannot see how anyone in Quebec or in any other part of the country could object to that. Does the Premier of Quebec not intend to bring forward a clear question? Does he intend to act in other circumstances? What precisely is his objection?

There is a concern that another route might be taken by a subsequent Government of Quebec. That issue was submitted to the Supreme Court of Canada, which responded in detail. As I recall, the Premier of Quebec was high in his praise of the decision. One of the fundamental elements of that decision was that the people of Canada and the Government of Canada have a role to play. I, for one, would hate to see the government abdicate that role.

[Translation]

Senator Rivest: Honourable senators, the minister suggested to me that the government decided to act at this time because the Premier of Quebec announced he wanted to hold a referendum. Why did the Right Honourable Pierre Elliott Trudeau, guardian of national unity, not decide to introduce a bill to determine the parameters of the question and of the majority when, the day after his election in 1976, René Lévesque announced that he planned to hold a referendum on sovereignty? Was the Right Honourable Pierre Elliott Trudeau not as concerned about Canadian unity and protecting the interests of all Canadians as the present Prime Minister of Canada?

[English]

Senator Boudreau: Honourable senators, Prime Minister Trudeau was very interested in the issue of Canadian unity. However, we have a situation that apparently has the approval of the Premier of Quebec and certainly the Prime Minister of Canada, where the Supreme Court has elucidated on this topic in a way that is unprecedented in our history. The decision was not available to us previously; it is available now. As I recall, that decision received approbation from the Premier of Quebec.

In its decision, the Supreme Court laid out some very clear criteria. It gives the federal government a reasonable opportunity to put these issues in clear perspective at a time when we are not in the middle of a referendum battle. Essentially, the government is insisting on two simple but fundamental points. If any province, not just Quebec, wants to separate from this country, it must put a question clearly to its citizens and it must have a clear answer. That is true whether it is Alberta, B.C. or Nova Scotia, and surely, nothing can be more reasonable than that.

• (1500)

However, the obligation on the federal government is not to act if those circumstances are not present.

[Translation]

Senator Rivest: Honourable senators, I have a supplementary question. Could the minister quote for us the passage from the Supreme Court of Canada decision requiring the Canadian Parliament to pass legislation? Does the Supreme Court of Canada decision, which states what the minister just told us, and I am happy to agree, have force of law in Canada? Why not let Jean Charest and the Liberal Party of Quebec fight the battle and remind the present Government of Quebec that —

[English]

— the law of the land is laid down in the decision of the Supreme Court of Canada. We do not need Mr. Dion's bill.

Senator Boudreau: That is a different argument, honourable senators. If one says that we do not need it or the timing is wrong, then clearly one would suggest there is no disagreement. The Supreme Court indicated, quite clearly, that these were factors that should be considered. I would be happy to supply a copy of the Supreme Court decision to the honourable senator.

Senator Ghitter: Answer the question!

Senator Boudreau: What this legislation shows is that there are responsibilities on both sides. The Government of Canada has clearly embraced its responsibility here. The federal government has put its position before the people of this country in a very reasonable way, and it has indicated what factors would be involved to determine the conditions laid out in the Supreme Court decision. These factors will be very helpful to any citizen of any Canadian province to have before them before they make a final decision — that is, if they are asked to make such a decision.

SUPREME COURT

TERMINOLOGY REGARDING DECISION ON REFERENDUM REFERENCE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have counted 10 times, in the brief series of questions that we have had so far on this matter, the word "decision" being used by the Leader of the Government in the Senate with reference to the opinion that was rendered by the Supreme Court of Canada.

It seems to me, if we are to be dealing with a matter of such critical import, that we must be very careful and precise in our wording. Does the minister not agree that the reference that was made by the Government of Canada and submitted to the Supreme Court was not for a decision but, rather, an opinion?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as the honourable senator states, it was referred and the Supreme Court of Canada has issued its opinion,

and I agree. It was an opinion that was welcomed at the time by the Premier of Quebec.

TRANSPORT

NOVA SCOTIA—FEDERAL GOVERNMENT COMMITMENT TO TWINNING HIGHWAY 101

Hon. J. Michael Forrestall: Honourable senators, I should like to know when we are going to get those helicopters. I should also like to know where the Minister of Transport and the President of Onex are today. However, I thought the minister might be a bit more conversant with the following question.

As the minister is aware, there seems to be confusion over federal commitments to aid the Province of Nova Scotia in twinning Highway 101 through the Annapolis Valley. Could the minister indicate to the chamber what commitment has been made to our province in this regard? If he does not have an immediate answer at hand, perhaps he might be prepared to let us have a written one at his earliest convenience.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I will certainly check with the Minister of Transport as to whether there are any recent developments. I was recently at a meeting where this subject came up for discussion between the minister and, I believe, a member from the other place who represents the particular area in question.

As the honourable senator would know from experience, the selection of highway projects is within the jurisdiction of the provinces. They determine the priorities then meet with the federal government to request financing. The federal funding covers some of the cost of these roads and is provided on the basis of the provincial government's priority list.

It is my understanding that the minister indicated he might consider a request should it come from the provincial government. In fact, special provision might be made. However, to the best of my knowledge, no such request has come forward to date. I qualify that because I have not spoken to the minister on this matter in the last week and a half.

FINANCE

ALLOCATION OF CANADA PENSION PLAN CREDITS IN MARRIAGE BREAKUPS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. About two years ago, when it announced the changes in Bill C-2, the Government of Canada also announced that five specific issues would be studied during the next triennial review of the CPP. That review was concluded last week. Only one of those five issues was ever mentioned in the government's news release, and that was a decision to keep on looking for ways to ensure that the CPP credits are split upon marriage breakup, as the law requires.

Far too often, this does not happen, even though the law makes it mandatory. We have been told that the federal and provincial governments are still trying to deal with this issue. Nothing has changed in the last two years. Now we are told that the federal and the Manitoba governments are "exploring the possibility of a pilot project in Manitoba."

My question is: Could the government leader advise the Senate as to whether the words "exploring the possibility" are a fancy way of saying, "Well, maybe we will and maybe we won't"?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not know to what extent the government, specifically the Minister of Finance, is reviewing that particular issue. However, I would be more than happy to make the inquiry and bring back a response to the honourable senator.

Senator Oliver: I thank the leader for that.

Honourable senators, as the minister knows, most Canadian women live out their final years in poverty, after staying at home while their husbands are out in the workforce, and they have no pension. Could the Leader of the Government report back on two other things? First, could he advise the Senate as to the exact state of the explorations and the possible pilot project? Second, could he tell us why, two years later, this problem has still not been resolved, particularly for those women who have worked in the home and not gone outside the home to work?

Senator Boudreau: Honourable senators, I would be more than happy to include those additional requests for information.

HEALTH

POSSIBLE REGULATIONS REGARDING ADDITION OF CAFFEINE TO BEVERAGES

Hon. Mira Spivak: Honourable senators, there has been a series of newspaper stories in *The Ottawa Citizen* on the caffeine question which is now before Health Canada. The question is whether to allow soft drink makers to add caffeine to beverages such as Mountain Dew. Last spring, this chamber unanimously passed a motion on the matter, and this series of articles raises new questions. I should like to ask a couple of them.

First, can the Leader of the Government in the Senate indicate whether or not the government will abide by the Senate's motion and maintain this country's current regulations, which do not allow caffeine to be added to citrus soft drinks, until there is evidence that the health of Canadians, especially children and young people, will not be harmed?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that

question. I am not aware at the present time of any change to current government policy, but I will inquire of the Minister of Health to ensure that I am up-to-date on that topic.

REQUEST FOR STUDY OF EFFECTS OF CAFFEINE

Hon. Mira Spivak: Honourable senators, there is a report which will be coming to the minister, but we have written him a number of letters in addition to this resolution urging him not to do anything, to "just say no."

The stories quote Health Canada officials as saying that they have no figures on the amount of caffeine Canadians are already ingesting from soft drinks, chocolate, coffee, and tea — all the sources. They say they are left with two choices. They can rely on the figures that industry gives them, or they can make up a worst-case scenario. I would suggest there is a third. They can have Statistics Canada generate the baseline data.

• (1510)

Can the honourable minister ask the Minister of Health to require evidence from an unbiased source in determining whether the health of Canadians will or will not be harmed?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am uncertain from the honourable senator's question whether she is suggesting that the requirement be placed on Statistics Canada forms.

Senator Spivak: Yes, to generate that baseline data.

Senator Boudreau: In fact, I believe that the process of designing and determining the information is underway now. I am not sure what stage it has reached, but I will make inquiries. I will pass along the honourable senator's request.

Senator Spivak: Thank you.

DELAY IN RELEASE OF SCIENTIFIC REPORT

Hon. Mira Spivak: Honourable senators, just to clarify, *The Canada Gazette* has already issued a notice that the proposal from Pepsi-Cola be agreed to, and in so doing it stated, quite baldly, that no studies had been done and that the main purpose was to harmonize Mountain Dew, for example, with the American formula. As you know, Mountain Dew contains more caffeine than many cups of coffee. Young children, including my grandchildren, after they finish playing hockey, think nothing of having a Mountain Dew or a sport drink. Now we are letting loose caffeine upon them. Caffeine is a psychoactive drug, and it should be labelled as a drug.

At any rate, the report from the committee of scientists which is responding to the minister was, as I understand, completed last July. Could the honourable minister also check why, if it was completed last July, the publication of that report has been delayed?

Hon. J. Bernard Boudreau (Leader of the Government): I would be happy, on behalf of the honourable senator, to make that further inquiry.

With respect to the substance of the question, one always must strike a balance between the extent to which human activity is regulated by government and the extent to which freedom of choice is available. I recognize the legitimacy of the honourable senators' concern; however, I do not think we are about to pass legislation to bar minors from Tim Hortons.

Senator Spivak: Honourable senators, I cannot let that comment go by. We are not passing legislation. We are attempting to protect young children from a psychoactive drug being added to something which they consume. There are many other things like that. This is not regulation; this is prevention for the health of young children. Do not confuse the two.

Senator Boudreau: I take the honourable senator's point. I just mention, though, that there is a balance to be struck.

The Hon. the Speaker: Honourable senators, before I hear the Honourable Senator Kinsella, I would advise that this will be the last question within the time period allocated for Question Period.

FISHERIES AND OCEANS

COAST GUARD—PROVISION OF CRUISES TO PREMIERS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, last summer the Canadian Coast Guard vessel *Sir Humphrey Gilbert* was used to take Premier Tobin and his cabinet on a cruise off the coast of Newfoundland. As a political minister from Nova Scotia, would the minister undertake to make similar arrangements for Premier Hamm and his colleagues this summer?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, not only must I decline the honourable senator's invitation, I also give him my personal assurances that I will not undertake any such venture.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on November 24, 1999 by Senator Oliver regarding the purchase of major companies by United States firms; a response

to questions raised in the Senate on November 30, 1999 by Senator Spivak and Senator Andreychuk regarding Manitoba, loss of confidential data, transfer of personal data, principle of consent procedures for security of personal data; a response to a question raised in the Senate on December 6, 1999 by Senator Andreychuk regarding the collapse of World Trade Organization discussions on the agricultural subsidies member states and assistance to Canadian farmers; and, finally, a response to a question raised in the Senate on December 8, 1999 by Senator Kenny regarding the status of the Holocaust Memorial Museum.

THE ECONOMY

PURCHASE OF MAJOR COMPANIES BY UNITED STATES FIRMS—GOVERNMENT POLICY

(Response to question raised by Hon. Donald H. Oliver on November 24, 1999)

While foreign purchases of Canadian companies have increased recently, these trends should be considered over a longer horizon.

Canadian direct investment abroad has expanded by even more than inward investment over the 1990s, to the extent that Canadians now own more direct investments abroad than foreigners hold in this country.

The exchange rate is only one of many factors that influence foreigners to invest in Canada. In fact, the recent increase in foreign purchases of Canadian companies has coincided with a *strengthening* of the Canadian dollar.

Ultimately, in a world that competes for investment dollars, foreign direct investment in Canada is an expression of confidence in our economy.

	Canadian Direct Investment abroad	Foreign Direct Investment in Canada
	\$billions	\$billions
	Quarterly Rates	Quarterly Rates
98Q1	8.1	7.8
98Q2	6.3	3.6
98Q3	14.9	8.3
98Q4	10.2	4.7
99Q1	4.5	3.2

ELECTIONS CANADA

MANITOBA—LOSS OF CONFIDENTIAL DATA—
TRANSFER OF PERSONAL DATA—PRINCIPLE OF CONSENT—
PROCEDURES FOR SECURITY OF PERSONAL DATA

(Response to questions raised by Hon. Mira Spivak and Hon. A. Raynell Andreychuk on November 30, 1999)

The government is committed to the protection of personal information, and, in particular, to ensuring that information about individuals is only used and disclosed in accordance with the law. Elections Canada shares this commitment.

In setting up the Register of Electors, Elections Canada sought the advice of many experts, including the Office of the Privacy Commissioner of Canada.

To maintain the Register, Elections Canada receives information from the federal, provincial and territorial governments.

Federal government data suppliers (i.e., Revenue Canada and Citizenship and Immigration Canada) will only pass information about individuals to Elections Canada with the consent of those individuals. To obtain this consent, Revenue Canada has added a box to income tax returns that filers can check off if they agree to have only specified data (name, address, date of birth) forwarded to Elections Canada. A similar change has been made to citizenship application forms so that new Canadians can provide their consent to have personal data transferred to Elections Canada.

Elections Canada also has agreements with provincial and territorial governments (e.g., motor vehicle registrars and vital statistics registrars) for the provision of information to update the Register of Electors. These agreements are based on the premise that the data supplier has authority to disclose the information. The issue of consent is therefore determined by the governing legislation in each province or territory.

Once Elections Canada has received information from its suppliers, the law provides that it can only be used for electoral purposes.

To safeguard the information in the Register of Electors, Elections Canada, from the time the Register was created, put in place sophisticated security monitoring systems (both human and technical) and well-documented data handling and processing procedures.

Following the loss of the tape containing information on Manitoba drivers, Elections Canada contracted an

independent security firm to audit all aspects of its tape transfer procedures. The firm gave Elections Canada high marks for its security arrangements. It recommended additional minor adjustments to existing procedures, and these have been implemented.

Canada's Privacy Commissioner, Mr. Bruce Phillips, has conducted his own investigation. He concurred with the results of the audit. "Having considered all the circumstances of this case, there is no doubt in my mind that simple human error contributed to the loss of the tape," wrote Mr. Phillips. "I am satisfied that Elections Canada has put in place a number of measures to ensure that this does not happen again, and I do not believe that additional recommendations beyond those already identified are required at this time."

It is also important to note that the Privacy Commissioner, as well as the jurisdictions supplying data to update the National Register of Electors, have the right to audit Elections Canada's entire process at any time — examining how information for the Register is collected, stored, updated and used — to ensure that the electors' right to privacy is respected.

INTERNATIONAL TRADE

COLLAPSE OF WORLD TRADE ORGANIZATION DISCUSSIONS—
AGRICULTURAL SUBSIDIES OF MEMBER STATES—
ASSISTANCE TO CANADIAN FARMERS

(Response to question raised by Hon. A. Raynell Andreychuk on December 6, 1999)

The Government of Canada is committed to creating a stronger, more efficient grain handling and transportation system, with greater accountability and more benefits to farmers.

The objective of the Government is to ensure that producers benefit from changes to the grain and transportation system arising from the recommendations of Justice Estey and the proposals of Mr. Arthur Kroeger.

It should be emphasized that the Government of Canada has always stated throughout this process that particular attention should be given to ensuring that producers share in the benefits resulting from a more commercial and competitive system.

The Minister of Transport, the Honourable David Collenette, has received the stakeholders' reports and Mr. Kroeger's recommendations in September.

The Minister of Transport, with the support of the Minister responsible for the Canadian Wheat Board and the Minister of Agriculture and Agri-Food Canada, is examining these reports to determine the best means of moving forward towards a more commercially oriented system.

The Government will carefully study the stakeholder's report and Mr. Kroeger's recommendations, along with the work done on the port, hopper car disposal and road repair issues, before proceeding with the implementation of a reform package.

HERITAGE

STATUS OF HOLOCAUST MEMORIAL MUSEUM

(Response to question raised by Hon. Colin Kenny on December 8, 1999)

The Government acknowledges the importance for all Canadians to learn about crimes against humanity, such as the Holocaust, and to understand the lessons of the past as we move into the next millennium.

No commitment has been made by the Government nor by the Department of Canadian Heritage regarding the establishment of a Holocaust Museum.

There are a number of ways to commemorate violations of human rights and securities. These includes a museum exhibition, a public awareness campaign, the establishment of a memorial or learning centre.

Pursuant to the discussions surrounding the accommodation needs of the Canadian War Museum, the Canadian Museum of Civilization has been asked by officials of the Department of Canadian Heritage, on behalf of the Minister, to undertake consultations on how best to commemorate the Holocaust and other acts of genocide. However, a time frame for these consultations has not been established.

While the Government recognizes the importance of learning about the tragedy of crimes against humanity in the 20th century, its role in national commemoration of the Holocaust or other genocides has not been determined.

ORDERS OF THE DAY

CIVIL INTERNATIONAL SPACE STATION AGREEMENT IMPLEMENTATION BILL

THIRD READING—DEBATE SUSPENDED

Hon. Peter A. Stollery moved the third reading of Bill C-4, to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Jeremiah S. Grafstein: Honourable senators, Bill C-4 is, on the surface, an innocuous, even delightful bill inviting enthusiastic, bipartisan support. It is a law to implement the international agreements Canada made for cooperation on the space station. Thus, all could not fail but support the underlying principle of the bill. It passed quickly through the other place after several hours of debate and review by the committee there. I, too, support the principle of the bill. Sometimes, however, God or the devil lurks in the detail. When the bill came to the Standing Senate Committee on Foreign Affairs for quick review and approval, I glanced at the bill for the first time.

Before the committee hearings, I asked government officials why it was necessary to have parliamentary approval when the international improvements could be implemented by cabinet approval alone. Why take up Parliament's busy time? I was told that the sole reason for parliamentary consideration was that this international agreement required amendments to the Criminal Code. Why? It is because the agreement envisages member states agreeing that each of their criminal laws would have extraterritorial jurisdiction to the space station, including flights to and from the space station.

So, honourable senators, I turn to clause 11 proposing amendments to the Criminal Code and article 22 of the agreement to analyze the ramifications of this extraterritorial application of our law. I discovered member states included the European Union, the United States, as well as Canada, Japan and Russia, and that the extradition laws and criminal laws of each of those states would apply.

Honourable senators will recall the amendments I moved to Bill C-40, the Extradition Act, supported by my colleague Senator Joyal, to remove the Minister of Justice's discretion when it came to requests for extradition by states where the accused would be subject to the death penalty. Capital punishment was abolished by Canada almost three decades ago. After a full debate, those amendments were defeated in the Senate. Honourable senators will recall that the party whip was applied on this side.

Bill C-4 resurrects the same issues as the defeated amendments of Bill C-40. The Minister of Justice still retains the discretion to decide whether or not to seek assurances from a state that retains capital punishment requesting, for example, extradition of an accused Canadian charged with murder. I pointed out the invidious position of the Minister of Justice deciding a question of life or death when Canada's law was clear — no capital punishment. This fearful discretion has been transported to outer space by Bill C-4.

Let me draw a simple proposition. A Canadian is charged with murder in the space station. A European is also charged with murder in the space station. Canada and all members of the European Union have abolished capital punishment. The space station was launched from Texas, a state that retains capital punishment. The European could not be extradited to Texas unless Texas gave the member state in Europe assurances that the death penalty would not be applied. Our Minister of Justice, however, would have the discretion to decide whether or not to extradite the Canadian, with or without assurance that the death penalty would apply.

• (1520)

This issue, honourable senators, is now squarely before the Supreme Court of Canada in the *Rafay and Burns* case which we referenced in our debate in the Senate on Bill C-40. In that case, the Minister of Justice was prepared to extradite, to Texas, two 18-year-old Canadian youths charged with capital offences without assurances that the death penalty would not be applied in that case. This, I believed, was contrary to section 7 of the Charter of Rights and some on the British Columbia Court of Appeal opined in agreement. The case is now on appeal to the Supreme Court of Canada, where it was argued on October 5, 1999.

Last week, at the Foreign Affairs Committee, we were told by officials that the Supreme Court, in a rather unusual order, has requested that the case be argued for a second time. Hence, the question raised by our earlier amendment to Bill C-40, which was defeated in the Senate, is still before the Supreme Court of Canada, albeit on the narrow facts of that case. Hence, my abstention at clause-by-clause stage in committee, and my intended abstention at the report stage and on third reading.

Why the abstention rather than another amendment? We were told by officials, in effect, that it is the government's intention to introduce appropriate amendments if the Supreme Court so decides to inhibit the minister's discretion. I ask myself: Why the rush to legislation? Clarity from the Supreme Court should be available shortly. Yet, if the government still seems anxious to proceed, I accept the official undertaking to renovate this peculiar and inconsistent law once the Supreme Court of Canada opines.

I abstain and await the Supreme Court's decision and, hopefully, future expeditious government action to remove this anachronistic and invidious discretion from the Minister of Justice.

Hon. Serge Joyal: Honourable senators, I wish to advise you of my grave concerns about Bill C-4 which implements Canada's ratification of the international agreement creating the Civil International Space Station. I am indebted to my colleague Senator Grafstein for bringing this issue to my attention while I was attending to the Legal and Constitutional Affairs Committee study of Bill S-10.

Bill C-4 contains provisions, in clause 11, which raise questions about the power of the Minister of Justice to authorize the extradition of Canadian citizens to states where the death penalty may be imposed. Clause 11 of the bill amends section 7 of the Criminal Code by inserting new subsections which have the effect of extending the application of the Criminal Code to the international space station. The proposed new subsection of the Criminal Code, subsection (2.31), reads in part as follows:

— a crew member...who commits an act or omission outside Canada...that if committed in Canada would constitute an indictable offence is deemed to have committed that act or omission in Canada —

The net result is that Canada's criminal jurisdiction is extended to the new international space station. Moreover, the criminal jurisdiction is exercised in cooperation with 14 other countries under the international agreement governing the space station. Consequently, the other 14 contracting states will have similar provisions under their penal law. In clause 11, Bill C-4 raises precisely the same substantive matter that was raised in clause 42(2) of Bill C-40 in the last session, namely, the discretion of the Minister of Justice to order an extradition where the death penalty applies. Once again, there is no safeguard against the death penalty for persons extradited from Canada.

As you will remember, I stated the fundamental principles supporting my position on the essential question of the death penalty in the spring of this year when the Senate dealt with Bill C-40, respecting extradition. During the third reading debate on that bill, I supported an amendment proposed by Senator Grafstein which would have required the Minister of Justice to secure an undertaking from the requesting state that the sentence of death would not be imposed or, if imposed, would not be carried out. Rather, the death penalty would be changed to a mandatory life sentence without the possibility of parole. In my mind, leaving the discretion over life and death of any person in Canada to a minister of the Crown is fundamentally wrong and contrary to the provision of section 7 of the Canadian Charter of Rights and Freedoms.

These important questions are currently the subject of the *Burns and Rafay* case that was heard in the Supreme Court of Canada this year. This case, as you will remember, involves the decision of the Honourable Allan Rock, P.C., to authorize the extradition of two 18-year-old Canadian citizens to a state in the United States where they are charged with murder and may face the death penalty. In formulating his decision, Mr. Rock did not seek any assurance that the death penalty would not be sought by the prosecuting authority in that jurisdiction. The Supreme Court ruling has yet to be rendered, but the learned justices ordered a re-hearing in the case on October 25, 1999.

In his testimony on Tuesday, December 7, 1999 before the Foreign Affairs Committee, Mr. Yvan Roy, general counsel of the criminal law policy section in the Department of Justice, explained that the power of a Minister of Justice to authorize extradition would continue to be one of complete and unfettered discretion and is not qualified by Bill C-4. The statement made by Mr. Roy was:

...the Minister of Justice, who is responsible for the application of the Extradition Act, may refuse to make a surrender order when the conduct in respect of which the request for extradition is made is the subject of criminal proceedings in Canada against that person.

Mr. Roy also acknowledged that the court ruling in the *Burns and Rafay* case may create an obligation on the minister to demand assurances before authorizing extradition in such cases. He said:

Mr. Chairman, you know that the matter actually is presently before the Supreme Court of Canada in *Burns and Rafay*. It may very well be that another section of this particular piece of legislation will have to be invoked, depending on what the Supreme Court of Canada will have to say if the death penalty were to be an option in the foreign state, again depending on what the Supreme Court of Canada says. According to current law, there is no such obligation, but that may become the law, depending on that judgment.

Honourable senators, given these circumstances, and taking into account the principles that I have already explained in detail on the public record in the Senate on the very issue of the death penalty last spring, I cannot in good conscience vote in favour of clause 11 of Bill C-4 which gives effect to the agreement for shared criminal jurisdiction on the civil international space station. Consequently, I wish to declare for the record that I intend to abstain from voting when the question is put for the third reading of Bill C-4.

[Translation]

Hon. Lucie Pépin: Honourable senators, I hereby give notice that I shall refrain from voting on Bill C-4 for the same reasons as honourable senators Grafstein and Joyal.

[English]

Hon. A. Raynell Andreychuk: Honourable senators, I will not enter into the discussion Senators Grafstein and Joyal have raised.

Hon. Dan Hays (Deputy Leader of the Government): I would beg the indulgence of honourable senators. I notice that it is 3:29 p.m. and we had agreed that we would revert to the Notice of Inquiry of Senator Gauthier at this time in order to give him an opportunity to speak for 15 minutes.

Therefore, I would ask for leave to revert to the inquiry standing in the name of Senator Gauthier which deals with a report on the recent la Francophonie Summit.

The Hon. the Speaker: Is it agreed, honourable senators that leave be granted to proceed to Inquiry No. 1?

Hon. Senators: Agreed.

Senator Andreychuk: On a point of order, I would remind honourable senators that the Foreign Affairs Committee was given permission to meet at this time.

The Hon. the Speaker: I am sorry, Honourable Senator Andreychuk, leave has been granted.

Senator Andreychuk: I would seek instruction.

The Hon. the Speaker: Is the honourable senator raising a point of order?

Senator Andreychuk: Yes. The Senate has authorized the Standing Senate Committee on Foreign Affairs to meet at 3:30 today.

Notwithstanding that, I intend to yield so that we may accommodate Senator Gauthier.

• (1530)

Is it the wish of the chamber that I speak to this order now, or that I speak to it later and attend the committee, of which I am a voting member? I find myself dealing with this conundrum every Tuesday and Wednesday.

Senator Hays: Honourable senators, I do not think that the chamber can help Senator Andreychuk. It is her choice. She is obviously free to attend the meeting, as the Senate has given the committee authority to meet while the Senate is sitting.

I will undertake to ensure that Senator Andreychuk receives notice when we resume the debate on Bill C-4, which will be in approximately 15 minutes, so that, if she wishes, she may return and participate in the debate at that time.

Senator Andreychuk: I will ask one of my colleagues to adjourn the debate in my name if I am not here.

Senator Hays: Since we hope to be able to deal with Bill C-4 today, I would ask that Senator Andreychuk speak today.

Hon. Jean-Robert Gauthier: Honourable senators, I am quite prepared to speak after Senator Andreychuk, if she is noted as being the last speaker on this order.

Senator Andreychuk: I will adjourn the debate in my name and deal with it tomorrow.

Senator Hays: I would prefer that we deal with it today.

Senator Andreychuk: Honourable senators, I did not intend to speak at length on this matter. We had a substantial debate on the death penalty when we dealt with the Extradition Act. My position was clearly stated on the public record then, and I continue to hold the same position.

I accepted that there was an urgent need for Canada to be part of the implementation of the space agency agreement. Consequently, I believe that it would not be good public policy or parliamentary practice to await the Supreme Court decision. Should the Supreme Court ruling require further legislation, we can deal with it at that time. Presently, the law is clear. As I said, this issue was debated when we dealt with the Extradition Act. I have not changed my opinion on that issue.

I want to thank both the Department of Justice and the committee for doing a good job in relation to clause 11 of Bill C-4. There was a problem in the English version, although I understand that the French version reads perfectly well. We are making Canadian criminal law and extending it to the space station. Under the definition of "crew member of a Partner State", crew members come under our jurisdiction for an act or omission that "is committed on, or in relation to, a flight element provided by Canada or damages a Canadian flight element".

There is no definition of "Canadian flight element" in the bill, and the Department of Justice conceded that while "flight element" is defined, "a flight element provided by Canada" is not necessarily the same as a "Canadian flight element".

While this seemed like quibbling to some, those who find themselves subject to criminal jurisdiction will find it to be more than that. We must be very clear. Anyone who is charged with an offence under this legislation deserves to have precision in the law.

I was pleased that the committee took my concerns under advisement. The department has indicated that in the next omnibus bill they will make the clarification and provide a precise definition so that no one who comes before our courts will be uncertain of his or her position. I thank the committee for that. It is extremely important, as we venture into space and create extraterritorial criminal law, that we be precise. I was

pleased that the government and the Department of Justice accepted my point of view.

I will support this legislation.

The Hon. the Speaker: Honourable senators, to ensure that the record is accurate, the Senate had given leave to hear the Honourable Senator Gauthier. That inquiry was called. Senators then, however, decided to revert to the debate on third reading of Bill C-4. That is the question now before the Senate.

Does any other honourable senator wish to speak?

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, when Senator Andreychuk rose to speak, Senator Gauthier agreed to speak after her intervention to accommodate her desire to attend the meeting of the Standing Senate Committee on Foreign Affairs. It is my understanding that there is agreement that Senator Gauthier now speak to Inquiry No. 1, standing in his name on the Orders of the Day.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it is very clear that our agreement is to interrupt the proceedings on the bill currently at third reading in order to hear Senator Gauthier speak to his inquiry.

The Hon. the Speaker: Is leave granted to proceed to Inquiries?

Hon. Senators: Agreed.

[Translation]

LA FRANCOPHONIE SUMMIT

INQUIRY—DEBATE ADJOURNED

Leave having been given to proceed to Inquiries:

Hon. Jean-Robert Gauthier rose pursuant to notice of Wednesday, October 13, 1999:

That he will call the attention of the Senate to the recent Francophonie Summit, which was held in Moncton last September.

He said: Honourable senators, on October 13, I gave notice that I would call the attention of the Senate to the recent Francophonie Summit, which was held in Moncton last September.

The agenda at the summit held in Moncton, New Brunswick, in early September was a busy one to say the least. Unfortunately, the media were quickly distracted from the agenda of the heads of state who were present, focussing instead on whether or not the presence of certain people at the summit was legitimate.

As senators know, over the past two years, I have had the honour of chairing the *Assemblée parlementaire de la Francophonie*. Therefore, I am going to say a few words on the role of the APF at the summit, before dealing with the thorny issue of legitimacy and ability to represent, in the case of a head of state who is suspected of having violated certain rights which we in Canada consider to be fundamental and basic in any free and democratic society.

As senators know, the *Assemblée parlementaire de la Francophonie* is a valuable link between decision makers within the Francophonie and francophone populations, since the assembly has 47 sections in various francophone parliaments, states and communities, and 12 associated sections.

In addition to its important interparliamentary analytical and cooperative work, the assembly takes part in the establishment and strengthening of democratic institutions and in election observation missions.

At the Mauritius Summit held in October 1993, after reaffirming the critical role of this parliamentary institution at the core of the representative democracy and the rule of law that the Summit is, the APF, which is the only parliamentary organization within the Francophonie, was recognized as the democratic link between governments and peoples within the Francophonie.

• (1540)

It was therefore decided to recognize the APF as an *Assemblée consultative de la Francophonie*, as was confirmed by the *Charte de la Francophonie* adopted in Hanoi in November 1997, which also created the position of *Secrétaire général de la Francophonie* held by Boutros Boutros-Ghali, former UN Secretary General.

At its regular session in Abidjan in July 1998, the Assembly decided to adopt the name *Assemblée parlementaire de la Francophonie*, in the interests of consistency with the Charter.

As an advisory assembly, the *Assemblée parlementaire de la Francophonie* took part in the Moncton Summit, during which its new president, Nicolas Amougou Noma, first vice-president of Cameroon's General Assembly, spoke before the heads of state and government.

In his address, Mr. Amougou Noma reaffirmed the APF's attachment to parliamentary democracy and the rule of law, and restated his opposition to any transfer of power through armed force. He recalled the stands taken by the APF against child soldiers and its support for the speedy establishment of the future international criminal court.

The *Assemblée parlementaire de la Francophonie* supports the decision taken at the Summit to create an observatory of democracy, which it has always thought was a good idea, and to which it intends to contribute its parliamentary expertise. The APF is also pleased at the favourable reception given its plan for the establishment of a parliament of young francophones, with

which it wishes to be closely associated. It noted with great interest the Summit declarations having to do with linguistic diversity, which it has vigorously promoted.

However, it has doubts about the continued increase in recent years in the number of members of the Francophonie, which is not to become a second United Nations or Commonwealth. In future, new memberships should be conditional on undertakings with respect to the use of French in international relations and in education.

Finally, the APF indicates that its membership encompasses only those parliamentary assemblies which are elected in strict adherence to the constitutional standards of their countries, and that it has suspended any members who ceased to respect that principle. It is therefore all the more entitled to denounce the campaign accusing the Francophonie of particular complacency toward dictatorial regimes. It expresses its conviction that ongoing actions are required in favour of day-to-day democracy, such as it is involved in at this time, missions to observe elections, training of elected representatives, forums and regularly held meetings to discuss how best to be a parliamentarian in a democratic country.

In this connection, the media have made much of the presence of representatives from Rwanda and the Congo. By so doing, in my opinion, they have cast a shadow over the accomplishments of the Summit and have sullied this exercise so crucial to the vitality of the international Francophonie. I took the liberty of writing to Prime Minister Jean Chrétien on this matter last August 24.

In his response to me on August 31, the Prime Minister referred to Canada's desire, and I quote:

— to respect its obligation to the Francophonie, that is to enable the representatives of all member states to meet in Canada for this Seventh Summit.

This does not, however, in any way imply that we sanction the violations committed by certain governments or individuals which might take part.

I understand the Prime Minister's position, but I believe it is high time for there to be a redefinition of the eligibility of certain leaders to take part in international meetings.

Moreover, Canada's Minister of Foreign Affairs, the Honourable Lloyd Axworthy, has acknowledged that Canada was, or would be, in favour of a right of humanitarian intervention. The principle of human safety and security taking precedence over any other activity, including the development of trade, is therefore acknowledged.

I am on side with such a position. In my opinion, it is in the same vein as the one I expressed to the Prime Minister, which is that human rights must come before a good number of customs and practices relating to international relations.

It is my personal belief that it will soon be possible to impose as the respect of human rights as a *sine qua non* condition for international representation by countries wishing to take part in an international conference. This would be a powerful means of showing the way to certain recalcitrant countries, just as trade embargoes and the severing of diplomatic ties do.

I trust, honourable senators, that this recommendation for states wishing to take part in international organizations to be required in future to respect human rights at all times will be acted on.

On motion of Senator Kinsella, debate adjourned.

[English]

CIVIL INTERNATIONAL SPACE STATION AGREEMENT IMPLEMENTATION BILL

THIRD READING

Leave having been given to revert to Government Business, Order No. 1:

On the Order:

Resuming debate on the motion of the Honourable Senator Stollery for the third reading of Bill C-4, to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts.

The Hon. the Speaker: Honourable senators, does any other knowledgeable senator wish to speak on the motion for third reading of Bill C-4?

Hon. Peter A. Stollery: Honourable senators —

The Hon. the Speaker: If the Honourable Senator Stollery speaks now, his speech will have the effect of closing debate on third reading.

Senator Stollery: Honourable senators, Canadians are among the largest users of space technology and live in one of the most connected nations in the world. The credit for this reality is based on a vision that seeks to open doors of opportunity for our industry, scientists, astronauts and, above all, the future generations of Canadians.

Seizing on the opportunities provided by Canada's partnership role in the international space station is the essence of Bill C-4. While this legislation sets out to ratify our contribution to this remarkable space venture, Bill C-4 is one small step for Canada in a project that represents a giant leap for humanity. It is only normal that a project of such scope and grandeur would require

the definition of a very elaborate management regime. The parties to the agreement — namely Canada, the U.S., Russia, Japan and 11 European nations — have undertaken to establish a framework for mutual international cooperation in relation to the detail, design, development, operation and utilization of a permanently inhabited Civil International Space Station for peaceful purposes. The agreement provides for mechanisms and arrangements to ensure the fulfilment of these objectives.

Legally speaking, Bill C-4 implements our commitments under the intergovernmental MOU by bringing Canadian legislation in line with this agreement. More important, Bill C-4 extends the application of Canada's Criminal Code to Canadians on board the space station and, in exceptional circumstances, to foreign nationals. This is similar in principle to the other extraterritorial applications of the Criminal Code, for example, on high-sea oil drilling platforms.

Moreover, Bill C-4 also ensures that information essential to meeting our space station commitments is available to the Canadian government and that any information provided to meet those commitments is used exclusively for that purpose.

I should like to take a moment now to thank my colleagues, in particular the members of the Standing Senate Committee on Foreign Affairs, for taking an active, earnest interest in the bill and the ISS program. As chairman of the committee, it was encouraging to witness the attention the members gave to this important milestone for Canada in space.

Certain issues related to codes of conduct, jurisdiction and extraterritorial application were just a few of the points raised and debated during the committee hearings. I am pleased to report that the senators' diligent and efficient treatment of the bill has brought us one step closer to its historic passage. Ratification will clear the path for Canada, and ultimately for all space station partners, and open a new era of space exploration — the operation and utilization of the world's largest permanently inhabited laboratory in space.

As we look to the next century, Canada is a world leader in space technology, poised to reap the opportunities of the knowledge-based economy that is Canada's future.

• (1550)

As we look to the next century, with Bill C-4, we reaffirm our partnership in the Civil International Space Station project, providing the robotic arm and hand to help assemble it, and giving Canadian scientists access to this amazing orbiting laboratory. Canadians will feel a deep sense of national pride as they watch, "live from space," Canadian astronauts taking part in the building of this milestone in human endeavour.

There is no doubt that as we stand at the threshold of a new millennium, we also stand on the threshold of further exploration of our universe, important scientific discoveries and innovative technological advances. The most important discoveries of the next 25 to 50 years are likely to be those of which we here today cannot even conceive.

Let us imagine 100 years ago how people were reflecting on the achievements of scientific discovery over the past 100 years, as we are doing today. Revolutionary theories of matter, evolution and thermodynamics of the 1800s must have seemed astounding in terms of progress. The road to progress, however, was, and remains, scattered with skeptics whose imagination falls far short of the rapid rate of change in science and technology. Let me quote some of the great, and now humorous, testaments of years ago.

Charles H. Duell, head of the U.S. Office of Patents, observed in 1899 that "everything that can be invented has already been invented." In 1943, Thomas Watson, chairman of IBM, was quoted as saying that there is a world market for maybe five computers. It is no wonder that in 1949 an edition of *Popular Mechanics* forecast that computers in the future may weigh no more than 1.5 tonnes. In addition, a Western Union internal memo once stated that the telephone had too many shortcomings to be seriously considered as a means of communication.

When Bell invented the telephone back in 1876, he imagined great uses for this innovation, but look at where we are today. Would Bell ever have imagined the ways in which telephone lines have transformed our society and how they are now being used to transmit multiple parties and accompanying video images? Since his death in 1922, the global communication industry, with Canadian companies among the leaders, has undergone an amazing revolution, connecting Canadians to the wireless world in which they now live. Estimates predict that between 270 and 350 telecommunications satellites will be launched by 2007 to support an expanding global information infrastructure, with revenues doubling by 2005.

Bell's "electrical speech machine" paved the way for today's information superhighway. Who would have imagined that an on-line electronic industry, or e-commerce, would grow, from late 1993 to late 1995, from nothing to something as important as steel and automobiles were in their days.

Our medical community, supported through space, science and technology, is working at completely eradicating certain ailments and finding solutions to others. Our scientific community, among whom Canadian space scientists are the leaders, are contributing to our understanding of the universe and the effects of global warming on our atmosphere. Our industrial community, with the Canadian space industry generating annual revenues over \$1.4 billion, is generating jobs, wealth and expertise for an ever-increasing global market.

Behind each and every discovery and innovation is a history of courage to take risks and the perseverance to succeed. There were many attempts to fly a heavier-than-air machine prior to the Wright brothers' measured mile of flight; placing a man in orbit, let alone reaching this distance, was a trying endeavour; and, as we are experiencing today, NASA's current efforts to explore the surface of Mars are certainly not one of its most shining moments, as was the case 30 years ago with Neil Armstrong's historic first step.

Yet, despite the setbacks, each milestone must be perceived as part of humanity's intrinsic need to explore and understand the unknown. Over the next 50 years, there is no way of telling which small stone overturned, even a stone on the surface of Mars, will lead to a whole new world of science.

Alexander Graham Bell once said:

When one door closes another door opens; but we so often look so long & so regretfully upon the closed door, that we do not see the ones which open for us.

The Civil International Space Station is but one such door that is open to Canada. It secures a place for Canada as a key partner in the most adventurous space venture ever undertaken in history, while ensuring that Canadian scientists, astronauts, experiments and technology get on board.

The most notable long-term investment in these partnerships is the creation of opportunities that instill in our youth a recognition and motivation that they, too, can play a role in the breakthroughs of the new millennium. It is therefore with great pride that I invite honourable senators to support this milestone for all Canadians and humanity in the fields of space exploration and technological innovation.

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Stollery, seconded by the Honourable Senator Sibbeston, that this bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read third time and passed.

[Translation]

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

THIRD READING—DEBATE ADJOURNED

Hon. Céline Hervieux-Payette moved the third reading of Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

She said: Honourable senators, I am pleased to address Bill S-3, the Income Tax Conventions Implementation Act, 1999, at third reading.

This bill amends the tax convention between Canada and Japan, implements new conventions with Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan and Jordan, and replaces the existing convention between Canada and Luxembourg.

The tax conventions in the bill are of particular importance to Canadian businesses and individuals who do business and invest in those countries. Allow me to set the bill in context.

Tax conventions have two main objectives: to avoid double taxation and to prevent fiscal evasion.

This means of course that tax conventions have a significant impact on two priorities for a state: the promotion of trade and investments, and tax fairness.

Tax conventions relate directly to the international trade of goods and services, and they have a concrete impact on domestic economy. Need I remind the honourable senators that Canada's exports currently account for over 40 per cent of our annual GDP?

Over the years, Canada's economy has also been dependent on direct foreign investments and on information, capital funds, technologies, royalties, dividends and interests. Tax conventions promote the trade of such goods and services.

Moreover, tax conventions contribute to the fairness of the tax system by ensuring that Canadians are not subject to double taxation, a situation that may arise when a taxpayer lives in a country but earns an income in another country. Without a tax convention, both countries could tax this income.

One possible solutions to this problem would be for the country of residence to exempt this income from taxation or to give a tax credit under a tax convention for the tax paid to the country where the income was earned.

The countries concerned may also agree to reduce the withholding tax rate. Indeed, countries usually withhold taxes on income paid to non residents. In the absence of a tax convention or other form of legal exemption, the withholding tax rate in Canada for non residents is 25 per cent.

The tax conventions covered by Bill S-3 provide for the reduction in the withholding tax on dividends, interests and royalties paid to Canadians operating in the countries concerned.

• (1600)

I will give some clarifications, if I may. The maximum withholding tax on dividends received from companies holding at least 10 per cent of voting shares in the company paying the dividends will be 5 per cent under the terms of the conventions with Luxembourg, Lebanon and Uzbekistan, and 10 per cent under the one with Bulgaria and Jordan.

Under our convention with Portugal, a company must hold at least 25 per cent of voting shares in order to be subject to the maximum 10 per cent tax rate on dividends. The conventions with Algeria and Kyrgyzstan set the withholding tax at 15 per cent for all dividends.

With respect to interests, the minimum withholding tax rate is 10 per cent under the conventions with Bulgaria, Luxembourg, Jordan, Uzbekistan, Lebanon and Portugal, and 15 per cent under the ones with Algeria and Kyrgyzstan.

There are certain exemptions, for example in connection with certain types of government loans.

A maximum 10 percent withholding tax will be applied to royalties under the terms of our conventions with Bulgaria, Luxembourg, Jordan, Uzbekistan, Kyrgyzstan and Portugal. The maximum for Algeria, again in relation to royalties, will be 15 per cent.

As well, certain conventions contain a provision for exemption or a maximum of 5 per cent on royalties relating to copyright, software, patents and know-how.

The protocol with Japan reduces the maximum rates applicable to dividends between companies to 5 per cent, and exempts from Japanese enterprise tax Canadian enterprises operating ships or aircraft in international traffic, a courtesy measure already allowed by Canadian provinces to Japanese companies carrying out similar activities in Canada.

Another important component of Bill S-3 is the rules being considered regarding the taxation of gains made by emigrants before their departure.

The conventions with Luxembourg, Portugal, Lebanon and Jordan comply with these new rules by providing measures in the event of double taxation occurs in such a situation.

Since most conventions signed by Canada, including those with Uzbekistan, Bulgaria, Algeria and Kyrgyzstan, were negotiated before these rules were announced, a provision was added to the proposed rules governing the migration of taxpayers, which would enable Canada to unilaterally grant a foreign tax credit to emigrants, until the year 2007.

This eliminates any risk of double taxation on gains made before an emigrant's departure, until these conventions are renegotiated so as to comply with the new rules.

The same provision applies to Japan, which asked that the issue be reviewed at the upcoming negotiations.

Finally, I would like to address the concerns expressed by some honourable senators regarding the tax convention concluded with Uzbekistan, in light of practices affecting human rights in that country.

Honourable senators, as Senator Gauthier mentioned earlier, the respect of human rights, at both international and national levels, is of paramount importance to our government. Canada's human rights policies are firmly based on values that are fundamental to our fellow Canadians.

These values are reflected in our democratic institutions and practices, in the federal and provincial human rights commissions, in the Charter of Rights and Freedoms, and in our traditions of peace, order and good government.

Canada's approach to human rights since 1986, regardless of the changes in government, has been based on commitment and dialogue. Canada feels that the establishment of a multi-level dialogue with those countries that give us concerns about how they treat human rights is an effective way of promoting transparency, respect for human rights and compliance with the rule of law.

Our policy is based mainly on pragmatism and principles that guide us when defining concrete measures to bring about positive and real changes in a given country.

Of course, the measures we take vary according to the country concerned, its willingness to discuss human rights issues with Canada, the extent of our influence in the country or the region, the number and strength of NGOs working in the country to promote human rights, and a whole range of other factors.

In the case of Uzbekistan, at the bilateral or multilateral level, Canada is urging this country to engage in economic and democratic reforms, and to better respect human rights.

On the multilateral level, in 1994 and 1995, Uzbekistan ratified six important United Nations treaties on human rights, which allows Canada and other United Nations member states to check whether Uzbekistan meets its obligations under these treaties. Moreover, Uzbekistan signed the Helsinki Final Act, making it a member of the Organization for Security and Co-operation in Europe. Canada supports the OSCE monitoring and democratization programs in that country. As such, CIDA sponsored the participation of representatives of Uzbek human rights organizations to a major OSCE conference on this topic held in Warsaw in 1998.

In addition, the Canadian International Development Agency supports a number of Uzbek projects in the area of human rights, including the preparation and distribution of a brochure on the Universal Declaration of Human Rights, by the Uzbek national human rights centre.

Uzbekistan is one of the newly independent states that used to be part of the former U.S.S.R. In 1985, Canada signed a double taxation agreement with the Soviet Union. As a result of the breaking up of the Soviet Union, it had to negotiate new agreements with states such as Uzbekistan, which are not among the succession states bound by the double taxation agreement entered into with the former Soviet Union.

In 1995, Canada undertook negotiations prompted by the interest shown by Canadian companies in this market, particularly in the natural resource sector. Uzbekistan is one of the world's biggest gold producing countries. As well, it has

major deposits of copper, silver, tungsten and zinc, and underground supplies of natural gas, oil and uranium.

Although exchanges with Uzbekistan have been modest so far, Canadian companies continue to show an interest in such sectors as mining, telecommunications and, just recently, education, in particular the creation of commercial schools in the country, and educational system reform.

The negotiation of a double taxation convention with Uzbekistan is in keeping with Canada's desire to facilitate the transition from a command economy to a market economy, and to promote the democratic development of the newly independent states of the former Soviet Union. Legal instruments such as the double taxation convention foster transparency, predictability and respect of the primacy of law in our bilateral economic relations.

Honourable senators, Canada will continue to engage in dialogue with Uzbekistan so as to encourage this country to improve its practices in terms of democratic development, respect of human rights, and economic reform.

It is hard to penetrate the markets of the former Soviet Union and much advance preparation is required. The legal instruments this requires, such as the double taxation convention, consist in framework agreements to protect the interests of Canadians and Canadian businesses. When Canadians choose to expand their activities into difficult markets such as Uzbekistan, the advantage of such instruments is that they clarify the rules and make forecasting easier.

I will address two other points before I close. First of all, honourable senators, when the provisions of a tax convention differ from those in the Income Tax Act, the tax convention takes precedence so as to guarantee that the objectives I have referred to will be met. Second, the fact that such conventions are in large part patterned on Model Double Taxation Convention prepared by the Organization for Economic Cooperation and Development, which is accepted by most countries, leads one to believe that they comply with international standards in this field and will not lead to disputes.

Honourable senators, elimination of double taxation on commercial operations involving the countries addressed by this bill can only benefit Canadian businessmen and investors doing business in these countries, and will do much to foster harmonious international relations and profitable commercial exchanges.

• (1610)

Canada currently has tax conventions with 67 countries. That number will climb to 74 once the conventions in this bill have been implemented, thus promoting Canada's goal to expand its network of international tax conventions.

Honourable senators, I urge you to give quick passage to this legislation.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, Senator Andreychuk is interested in speaking to this bill as well, but she has had to go to the meeting of the Standing Senate Committee on Foreign Affairs. I move the adjournment of the debate in her name, and I am sure she will speak to it tomorrow.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, since it is late in the year, could I ask Senator Kinsella whether there are other speakers on the opposition side who wish to speak to the order in addition to Senator Andreychuk?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I also intend to speak to the bill, and I hope to do so tomorrow. I believe we are the only two senators who wish to speak.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Kroft, seconded by the Honourable Senator Furey, for an Address to Her Excellency the Governor General in reply to her Speech from the Throne at the Opening of the Second Session of the Thirty-sixth Parliament.—(8th day of resuming debate).

Hon. Marjory LeBreton: Honourable senators, I am pleased to participate in the debate on the Speech from the Throne, although I must say I agree with most observers and commentators that the Throne Speech was particularly devoid of vision and lacked any meaningful direction on the part of the government. I have only one thing to say with respect to that: Quelle surprise!

That brings me to the subject of my speech: the unchallenged claim of economic management by the Prime Minister and the Prime Minister in waiting. The PMO's summary of the Throne Speech stated:

We have ended an era of skyrocketing deficits and public debt — for good. We have brought down back-to-back balanced budgets for the first time since 1951-52. We have put the debt-to-GDP ratio on a permanent downward track.

The government's spinmeisters and propagandists consistently and successfully it seems, because they are unchallenged, would have Canadians believe that the former government was

responsible for this state of affairs. They have played fast and loose with the truth. I am well aware, honourable senators, that the only words to describe this tactic would be considered unparliamentary.

What we have is a government which misrepresented every single initiative of the former Progressive Conservative government of Brian Mulroney — on free trade, on GST, on privatization and deregulation, on the Pearson airport development, and on the purchase of helicopters, to name but a few. Why, then, when they have this unblemished record of reversal of policies, are they allowed to get away with the claim that they "inherited a mess", to use the Prime Minister's own words?

What are the facts? Honourable senators, in the fall of 1993, the deficit stood at \$37.5 billion. The Liberals came to power in November, 1993, and quickly went to work piling every conceivable expenditure onto that figure to raise it to as high a level as possible before the end of the 1992-93 fiscal year which ended in March, 1994. They had five months to do their handiwork. They were throwing around the speculative figure of \$44 billion to \$46 billion shortly after coming to office, hoping it would stick in the public mind — and it did, unfortunately. After a great deal of effort, they did get the deficit number up to \$42 billion. Their aim was clear, and that was to get the number higher than the \$38 billion which was the deficit when the Progressive Conservative government was formed in 1984.

How did they do this? They added expenditures to the books that were, in fact, expenditures intended for future years. Some examples: GST rebates, \$6 billion; early release of tax refunds, \$1.8 billion; defence restructuring charges, \$0.7 billion; provincial stabilization payments not due to be paid until 1996 and 1997, \$1.4 billion; resource tax liabilities, \$.5 billion. In fact, honourable senators, three of the above-mentioned figures were not paid out as of March 31, 1993, even though they were put on the books for 1992-93.

The Auditor General objected to this practice but the government did not care. They needed a certain figure for their own political propaganda purposes. They were prepared to take a day or two of potential negative news reports in order to meet their political agenda.

Why would they not? They faced virtually no opposition in Parliament, and they were supported at the time by a compliant and, in many cases, a fawning media. The opposition parties, the Bloc and Reform, were more interested in destroying the Progressive Conservative Party than in holding the government accountable. Thus the Liberal government perpetuated a myth which they spun into reality and which they continue to recite, like the trained seals they are, to this very day. Because of their known record of misrepresentation in all other areas, it is surprising that they have not been challenged on this as well. They get high marks in spinning a story. I suppose, if you are a Liberal, this is terrific. It suits their purpose to perpetuate this

myth. Since fairness has never been a strong suit for them or their apologists — all is fair in love, war and politics, as the saying goes — let us accept that as an unfortunate reality, which, by the way, only contributes to the low opinion about politics and politicians in the public.

Let us approach this another way, honourable senators, and that is by bluntly pointing out that there is a wrong to be righted here, and hope that this filters through to all of those who observe the political scene. I intend to do just that: set the record straight.

The situation the new Progressive Conservative government inherited in 1984 was bleak. Ontario Liberal leader David Petersen said at the time, "Brian Mulroney has just inherited one helluva mess." Outgoing Liberal deputy prime minister and secretary of state for external affairs, Jean Chrétien, said, with uncharacteristic honesty which he has not since displayed, "We left the cupboard bare."

Just this past October, Michael Bliss, in a column on Mr. Trudeau entitled, "Trudeau at 80 — A Tattered Legacy", stated:

The Trudeau government's failures in economic policy were so complete that even their ruins have disappeared. Who but political archaeologists remembers the Foreign Investment Review Agency, the terms of the national energy program, the wage and price controls? Who cares?

He continued:

Even as Pierre Trudeau held office, the bankruptcy of Liberal attempts at state moulding of the Canadian economy had become palpable. Socialist-derived notions of planning, collectivism and progress through public ownership collapsed in Canada and around the world, as did socialism itself.

All that remained of Liberal economics in the Trudeau years was a stinking mountain of debt and an oppressive taxation regimen. The Chrétien government has tried to turn away entirely from this aspect of Mr. Trudeau's legacy.

Honourable senators, the fact is that government intervention in the economy and our lives was at its height. Government regulation and red tape was the flavour of the day, and government spending was at record highs. Through the Trudeau-Chrétien years, as a result of these policies, Canada was crippled by interest rates in excess of 22 per cent. Honourable senators, I remember this because I had to pay 19.5 per cent for a first mortgage, and I am sure those of you who had to mortgage your home had to pay the same. We had double-digit inflation and debilitating policies like the NEP and FIRA. The Auditor General of the day correctly reported that the Government of Canada and Parliament had "lost control of the public purse."

Program spending had increased by over 14 per cent per year every year for 15 years. The federal deficit had gone from almost zero to \$38 billion dollars, and the federal debt had increased by more than 1,000 per cent, with some of the biggest increases coming when Jean Chrétien served as Minister of Finance.

• (1620)

As a new government in 1984, we had the onerous task of changing both attitudes and realities. We were determined to take this on. We believed that we owed it to Canadians who elected our new government. As a university study noted:

The long term consequences —

— of the Trudeau economic policies —

— runaway inflation, a free falling dollar, sky high interest rates and worsening unemployment — presented Prime Minister Mulroney with serious problems that took a long time to resolve.

There was no doubt that Canada had to alter course, and fundamental policy changes would have to be embarked upon. What was done?

On the fiscal side, the average rate of growth of program spending was cut by 70 per cent. Government spending on programs moved from \$1.23 for every dollar in total revenues to 97 cents by 1993. An operating deficit of \$16 billion per year was transformed into a \$6.6-billion surplus. In effect, excluding debt servicing and costs, by 1990 the Government of Canada was being run in the black.

What about the deficit that we keep hearing about in the other place and in the public arena? The truth is, as any observer of financial reporting knows, that the only true measure of deficit reporting is as a percentage of the GDP. Even the infamous Red Book conceded that. It cited the standard used by member states in the European Community in holding to the Maastricht Treaty of maintaining a deficit goal of 3 per cent of GDP.

What are the facts? As a percentage of the GDP, the federal deficit was virtually cut in half by the former government — from 8.7 per cent in 1984 to 4.6 per cent in 1990-1991. Then we were hit by a worldwide recession which adversely affected the number, bringing it back up to 5.8 per cent for 1993-94. Even with the recession, the deficit was almost 3 per cent lower when we left office than when we came in, even with the Liberal add-ons that they did in the last five months of the fiscal year. The undeniable fact is that public finances were left in a position sufficiently stronger in 1993 than we found them in 1984.

As a Privy Council analysis noted, and it is interesting that this analysis was written by a member of this chamber who happens to be on the other side now:

...all deficits and increases in the national debt were attributable to interest on the debt that existed before —

— our —

— government came to office.

What other measures did our government initiate that contributed to our present economic health? The Foreign Investment Review Agency, which drove away foreign capital, was abolished. Key sectors of the economy, such as energy, transportation and financial services, were deregulated, and there was a complete overhaul of the government's regulatory process. In the energy sector, for example, the National Energy Program, which siphoned billions of dollars from the Alberta economy and devastated the oil industry, was abolished, along with the Petroleum and Gas Revenue Tax, the PGRT.

The government privatized or dissolved 39 Crown corporations and other similar holdings. As well, legislation was passed and administrative steps were completed for the elimination or consolidation of 41 agencies, boards and commissions. This, along with operational efficiencies, resulted in 90,000 jobs being removed from the federal payroll. From Telelobe to Air Canada to Canadair and Petro-Canada, new private sector companies emerged to successfully compete and expand in a challenging international marketplace. Canadair and de Havilland were black holes into which money was thrown when they were sold to Bombardier. Today Canadair is a success story in the aviation industry, with sales of the Challenger 604, regional aircraft and the Global Express. Bombardier is now the third largest aircraft company in the world. Only Airbus and Boeing are larger.

The Patent Act was revamped to strengthen the pharmaceutical industry, attracting billions of dollars in new investment in research and development, now employing thousands and thousands of Canadians. We all remember the Liberal doublespeak on this courageous policy move.

Free trade with the United States and NAFTA were and are the centrepieces of our many achievements. The opposition, especially from the Liberals, was brutal. Mr. Mulroney was personally demonized and our patriotism was questioned. It is now clear that we chose the right course for Canada. Who but the Liberals could embrace these policies while keeping a straight face? It seems largely forgotten now that the Liberals ferociously opposed both the free trade agreement with the United States and the NAFTA, which included Mexico, only to swallow themselves whole when they came into government.

In 1988, the last year before implementation of the Canada-U.S. Free Trade Agreement, our merchandise exports to the United States totalled \$101 billion. In 1998, 10 years later, Canada exported \$252 billion in goods to the United States. In a low-inflation environment with dollars virtually constant over the

period, our exports to the United States effectively doubled in eight years.

Honourable senators, it took 120 years from Confederation for our exports to the United States to reach \$100 billion. It took just 10 years under free trade to surpass \$250 billion.

Among other calamities the Liberals said would occur under free trade was the loss of medicare, regional development and our cultural institutions. The Liberals were joined by Bob White and the Canadian Auto Workers who suggested the auto industry would go south. It has gone south all right. From 1991 to 1998, our exports of automotive products to the United States increased from \$31 billion to \$75 billion, an increase far in excess of 100 per cent.

Were it not for free trade, our economy might well have remained stagnant throughout the 1990s. That is not to say that this was achieved without sacrifice and dislocation. As the Business Council on National Issues noted:

Export performance has been the brightest star in the Canadian galaxy.

It is fair to say, without equivocation, that free trade is an outstanding success.

What about the GST? This was the single-most controversial and unpopular initiative undertaken by the former government during our nine years in office. Who can ever forget the shenanigans here in this chamber? As a matter of fact, one would be hard pressed to find an equivalent precedent in our entire history. In the 1993 election, the Liberals promised to abolish it and replace it. Canadians went to the polls in great numbers, believing this to be the case. Six years later, it is still there. Why?

The answer is obvious. It has proven to be what it is — an upfront, visible and socially progressive tax. It has also been beneficial to our economy, especially to our exports, and it has added significantly to the revenues of the government. The old 13.5 per cent Manufacturers Sales Tax, which we abolished, was a hidden tax and a hindrance to exports. The 7 per cent GST, as a tax on consumption, comes off at the border on exports. It is one of the main reasons, along with free trade, that Canada has enjoyed an export boom throughout the 1990s.

The Canada-U.S. Free Trade Agreement, the NAFTA, the GST, privatization, deregulation, the abolition of the National Energy Program and the replacement of the Foreign Investment Review Agency by Investment Canada were all part of the restructuring and modernizing of the Canadian economy. On the fiscal side, deficit reduction and the downsizing of government began in 1984, not 1994, as some would have you believe.

The Hon. the Speaker: Honourable Senator LeBreton, I regret having to interrupt you, but your time for speaking has expired.

Senator LeBreton: Honourable senators, may I have leave to continue?

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

Senator LeBreton: All these courageous policies have two common characteristics. The Progressive Conservative government brought them in, and the Liberals fought and voted against every single one of them.

By the time Mr. Mulroney's government left office in June 1993, employment in Canada was up 1.4 million jobs from the September 1984 level. The prime rate was at 6 per cent, the lowest in 20 years. Our inflation rate was 1.5 per cent, the lowest in 30 years. The United Nations had just reported that in terms of quality of life, Canada was the number one nation in the world. That was the Canada the Liberals and Mr. Chrétien inherited six years ago.

Most important, honourable senators, attitudes have changed. Thanks to our efforts, Canadians were brought around to understanding the importance of deficit reduction, something they were not prepared to face a decade earlier.

• (1630)

A few years ago, Professors Thomas Velk and A.R. Riggs of McGill University, co-directors of the North American Studies Program at McGill, analyzed the economic performance of Canada under all prime ministers since the Second World War. These economic experts compared results from unemployment, inflation, growth, interest rates, value of the dollar, distribution of income, deficit and tax rates. What was their conclusion? I quote directly from their study.

Mulroney's objective record — in terms of core performance statistics for the Canadian economy — is the best in the past 35 years.

As I indicated at the beginning, all these undeniable facts have been lost in the turbulence of misinformation and the altering of the truth by the formidable propaganda machine known as the Liberal Party of Canada. Liberal spin doctors and friendly lickspittles in the media are now telling the nation how this government courageously eliminated the deficit, turned the economy around and saved the nation. Jean Chrétien and Paul Martin have already ordered their halos.

Central to this thesis is their allegation that in 1993 the new Liberal government inherited an extremely bad economic and

fiscal situation. In fact, in a TV debate during the 1997 election campaign, Mr. Chrétien referred to the "disaster" he had inherited. Perhaps Mr. Chrétien was having another of his famous chats with the homeless. Of course, he inherited no such thing. The groundwork had been laid for a strong export-driven recovery. Our policies provoked deep structural change in Canada, from taxes to inflation to trade. They were unpopular but necessary.

Honourable senators, Canadians quite rightly should be happy with these results, but let us give credit, or at least some of it, to where credit is due. As former prime minister Brian Mulroney once said, Finance Ministers Michael Wilson and Don Mazankowski planted the garden and Paul Martin is picking the flowers. As a Canadian, I am pleased by that result and do not begrudge Mr. Martin any credit that comes his way. It is indeed a privilege for all of us who serve in Parliament to see hotly contested policies ultimately bring about beneficial results that strengthen the fibre of our nation.

Honourable senators, we told Canadians what they had to know — the truth they needed to know about free trade, NAFTA, the GST, deficit reduction, low inflation, Pearson airport, helicopter purchases, and we even believed in that old parliamentary tradition of ministerial responsibility and accountability. Our economic policies were pilloried in many quarters, but we repeated over and over that if these policies were enacted and sustained over an extended period of time, Canada would be a nation transformed. The deficit would be eliminated, exports would boom, and the economic well-being of Canadians and their families would be enhanced in a non-inflationary climate. We did not promise perfection, just significant progress. I am extremely proud that I and honourable senators on this side were and are such a large component of that significant progress.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, if the Honourable Senator Kroft speaks now, his speech will have the effect of closing debate on the motion.

Hon. Richard H. Kroft: Honourable senators, on October 13, I had the great privilege of moving the Address in reply to the Speech from the Throne. I took that opportunity to speak on things that are important and meaningful to me, to my province and region, and to Canada.

Senator Furey, in his Address in reply to the Speech from the Throne, brought his own perspective from the eastern edge of our country and from his personal experience. In the days since, many senators have participated in the debate and have brought to bear a great range of ideas and insights. It has been a debate in the best traditions of this place.

In my address, I observed the following:

It is the task of the government to listen carefully to all voices, to conduct its own studies and evaluations and, in the end, to determine a course of action. It is on that course of action and on the effectiveness of its execution that the government will be judged. More important, it is on the quality of those decisions and actions of government that the future well-being of Canada and individual Canadians will depend.

Honourable senators, the government has now heard the voices from this chamber and has the benefit of our guidance. With that, if there are no other speakers, I am pleased to move the motion standing in my name.

Motion agreed to, on division, and Address in reply to the Speech from the Throne adopted.

On motion of the Honourable Senator Hays, ordered that the Address be engrossed and presented to Her Excellency the Governor General by the Honourable the Speaker.

SPEECH FROM THE THRONE

ADDRESS IN REPLY—MOTION FOR TERMINATION OF DEBATE ON EIGHTH SITTING DAY—ORDER WITHDRAWN

On the Order:

Resuming debate on the motion of the Honourable Senator Hays, seconded by the Honourable Senator Mercier:

That the proceedings on the Order of the Day for resuming the debate on the motion for an Address in reply to Her Excellency the Governor General's Speech from the Throne addressed to both Houses of Parliament be concluded on the eighth sitting day on which the order is debated;

And on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare, that the motion be not now adopted but that it be amended by striking out the word "eighth" and substituting the word "fourteenth".

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I rise to request leave that Motion No. 2 under Government Business be deleted from the Orders of the Day as it is no longer relevant.

The Hon. the Speaker: Honourable senators, first we need the agreement of the mover of the amendment, as that is the motion presently before us.

Does the mover wish to withdraw the amendment?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, as the past two procedures have indicated, this matter has been overtaken. Therefore, not only do I concur, but I suggest that it is a good move.

The Hon. the Speaker: The Honourable Senator Kinsella has requested that his amendment be withdrawn. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: The Honourable Senator Hays has requested that his motion be withdrawn. Is it agreed, honourable senators?

Hon. Senators: Agreed.

Order withdrawn.

PUBLIC SERVICE WHISTLE-BLOWING BILL

SECOND READING—DEBATE ADJOURNED

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) moved the second reading of Bill S-13, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistle-blowers.

He said: Honourable senators, Bill S-13 is a bill with a short title. It is the Public Service Whistle-blowing bill. I invite honourable senators to take a few moments to reflect on this bill, and I will attempt to identify some of its key principles.

Fundamentally, Bill S-13 is situated within the environment of public service values and ethics. The bill speaks to a contemporary, professional public service that we are fortunate to have here in Canada. Indeed, it is my submission that the Public Service of Canada is second to none in the world.

A report entitled "A Strong Foundation" examined public service values and ethics. This is the report of a task force established by the Clerk of the Privy Council a few years ago and chaired by the late John Tait, a former colleague and deputy minister of justice. The purpose of "A Strong Foundation" was to help the public service think about and, in some cases, rediscover and understand its basic values and recommit to and act on those values in all its work. I commend this publication to honourable senators for reading. Some of the issues and problems identified as concerns of public servants of Canada include evolving conventions about accountability; tension between old values and new; ethical challenges emerging from new service and management approaches in the public service; and leadership and people management in this time of great change.

Bill S-13 attempts to cast the need to provide for a framework to deal with the matter of whistle-blowing within this new context of ethics and values as a strong foundation of our Canadian public service. The whistle-blowing framework of Bill S-13 builds on the ethics regime which, frankly and happily, is growing within our public service.

• (16:40)

As indicated at page 54 of the Tait report, an ethics regime:

— is not a single initiative but rather a comprehensive series of initiatives, mutually supporting and complementing one another.

Further, at page 55, we find the Tait report observing:

One element of an ethics regime to which we wish to give particular importance is the establishment within public service organizations of suitable recourse mechanisms, counsellors, or ombudsmen for public servants who may feel that they or others are in potential conflicts of interest or other ethical difficulties, or may feel that they are under pressure or have been asked to perform actions that are unethical or contrary to public service values and to the public interest. One refrain that we have heard from public servants is that there is no point in asking them to uphold public service values or to maintain high ethical standards in public service, if we do not give them the tools to do so. One of the essential tools they require is some accessible person to whom they can turn, in confidence, to seek advice and guidance, to express concern about instructions given, or to report a serious breach of public service ethics. Such a function must have sufficient seniority, independence and authority to carry out the duties effectively and to protect the identity and positions of those who have recourse to it. There must be means, consistent with public service values, for public servants to express concern about actions that are potentially illegal, unethical or inconsistent with public service values, and to have those concerns acted upon in a fair and impartial manner.

Honourable senators, Bill S-13 is designed to build on this desire that is expressed by the public service itself, that is, to operate as a first-class service. The bill is built on a framework of four pillars. The first is to keep responsibility for an ethical and values-based management of departments and agencies at the unit level, whereby solutions to problems would involve the managers and, ultimately, the responsible minister at the departmental level. The second pillar speaks to the cross-service and public interest need. The third is the provision of a process to deal with individual cases of whistle-blowing, a process that operates on the public interest basis and removes from the shoulders of the individual public servant the strain and stress of

dealing with wrongdoing and having it dealt with by one of the three commissioners of the Public Service Commission of Canada. The fourth pillar of the bill is protection for the whistle-blower. Thus, there are in Bill S-13 anti-retaliation provisions.

Honourable senators, the model is one which, first, protects the public interest in general; second, enriches the public service as a first-class institution; third, provides for accountability and solutions at the unit level; and, fourth, protects the public servant. Thus, we have provided in clause 2 of Bill S-13 what I call the triple "P" approach. The first of the three "Ps" is for promotion. Clause 2(a) provides that we wish to place a focus on education, and that persons working in the public service workplace will have the opportunity to be exposed to a reflection on ethics and values in the public service.

The second "P" is for process. Clause 2(b) provides for protection of the public interest by providing a means for employees of the public service to make allegations of wrongful acts or omissions in the workplace, and to make those allegations in confidence to an independent commissioner, one of the three commissioners of the Public Service Commission. It will then be on the shoulders of that commissioner, in the public interest, to investigate the allegations and to have the situation dealt with. The Public Service Commission makes an annual report to Parliament on its activities. The bill provides for a section of the annual report of the Public Service Commission to focus on the work done pursuant to this bill.

Finally, the third "P" is for protection. Clause 2(c) indicates that purpose of the bill is to protect employees of the public service from retaliation for having made or for proposing to make, in good faith, allegations of wrongdoing and submitting these allegations to this special commission.

Honourable senators will find the framework of the bill to be straightforward and clear. The public service itself has been working in this area of ethics and values. The record is pretty darn good in terms of the high level of professionalism that is manifested by our professional public service, serving successive and varying governments over the years. We should be proud of the Public Service of Canada.

This issue of whistle-blowing is a reality with which other jurisdictions have attempted to deal. Successive governments have indicated their interest in trying to provide for appropriate whistle-blowing legislation. The model that we are proposing in this bill which, hopefully, the appropriate Senate committee will invite representations on, is simply to designate one of the three commissioners of the Public Service Commission of Canada as a public interest commissioner to whom an individual public servant observing illegal activity or wrongdoing would take his or her case or allegation. The carriage of the case would be placed on the shoulders of the Public Interest Commissioner so that the individual public servant would not be left with that task, along with the anxiety and stress that it entails.

• (1650)

It is in the public interest that we have no improper activity. That is why the bill envisages the investigation being done by a commissioner of the Public Service Commission itself. Sometimes cases are frivolous or vexatious. Those would be dismissed at the first instance so that there would be no waste of time of both the individual, and the department or the agency in question.

Those cases which are bona fide would be investigated, and the department would be visited by the commissioner. The department would then be invited to manage itself in such a way as to deal with issues of wrongdoing, because it is terribly important to keep the departments or the agencies themselves operating and managing on the basis of ethics and values which are the foundation of our public service.

This is not a top-down kind of model. Rather, it tries to keep the accountability and the responsibility at the operating level. However, should the Public Interest Commissioner who is dealing with a case of wrongdoing determine that he or she is not receiving satisfactory response at the agency or departmental level, he or she would be able to approach the minister, who is, ultimately, accountable, and the minister would attend to the rectification of the problem. If that fails, then the commissioner would make a report to Parliament. Therefore, at the end of the day, under our Westminster system, it would be Parliament itself who would hold accountable the minister in question.

At the same time as we have provided for this kind of mechanism, it is important that the promotional and the educational functions continue to be carried out by the Public Service Commission.

Finally, it was necessary to provide for protection of the statutory requirement for confidentiality. That must be maintained from the moment the individual public servant files a complaint with the commissioner, through to the prohibition of retaliatory actions from anyone who has filed a complaint with the commissioner.

Honourable senators, those are the principles of the bill. That is the framework it encompasses. I invite my colleagues to participate in this debate.

On motion of Senator Finestone, debate adjourned.

ROYAL ASSENT BILL

SECOND READING—MOTION IN AMENDMENT— SPEAKER'S RULING

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, for the second reading of Bill S-7,

respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament,

And on the motion in amendment of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the Bill be not now read a second time but be read a second time when its sponsor fulfils the condition required by the law of Parliament that is necessary and preliminary to the passage in Parliament of a private member's bill altering the Royal Prerogative, that preliminary condition being the signification of Her Majesty's Royal Consent to Parliament's consideration of Her Majesty's interests in Bill S-7's proposed limitation and alteration to the manner, form, and style of Her Majesty's Royal Assent in Canada, which is simultaneously an alteration to the constitution of the Senate.—(*Speaker's Ruling*)

The Hon. the Speaker: Honourable senators, if it is agreeable, I am prepared to proceed with my ruling now.

Hon. Senators: Agreed.

The Hon. the Speaker: On December 1, during debate on the second reading of Bill S-7, respecting the declaration of Royal Assent by the Governor General in the Queen's name, Senator Cools proposed an amendment. This amendment would have the effect of postponing the second reading of the bill until its sponsor, Senator Lynch-Staunton, obtains the signification of Royal Consent. Senator Cools maintained this was necessary, given that the bill, in her view, affects the Royal Prerogative.

[*Translation*]

Shortly thereafter, Senator Lynch-Staunton rose on a point of order to challenge the amendment. He claimed that Bill S-7 does not affect the royal prerogative and, consequently, that the amendment goes beyond the content of the bill and is out of order. Senator Carstairs and then Senator Kinsella spoke in support of Senator Lynch-Staunton's basic position. Senator Carstairs noted that the bill is intended to provide an alternative to the current ceremony of royal assent, not to eliminate it as an essential requirement to the enactment of bills passed by Parliament. For his part, Senator Kinsella suggested that the amendment seemed to be imposing an unnecessary restriction on the ability of any Senator to bring forward legislation.

[*English*]

In reply to these objections, Senator Cools denied that her amendment sought to impose any limitation on anyone. In this instance, however, Senator Cools maintained that, since the bill would affect the Royal Prerogative by altering the sovereign's powers with respect to Royal Assent, some evidence must be provided that the Governor General or Her Majesty the Queen

consent to the proposal contained in Bill S-7. As an example, Senator Cools cited debate that occurred in the United Kingdom in 1911 during consideration of the Parliament Act which provided authority for Parliament to adopt legislation bypassing the House of Lords.

[Translation]

Since this point of order was raised, I have studied the matter and I am now prepared to rule on it. Let me begin by stating that, to my mind, there seem to be two distinct parts to this point of order. One, of course, has to do with the matter of the Royal Prerogative. The second relates to the kind of amendments that are permitted at second reading. I will begin with the second element first.

[English]

Second reading involves a decision of the Senate on the principle of the bill, whether the Senate accepts its basic intent or not. This focus on the bill's principle has led to a practice that limits the kind of amendments that can be moved at this stage. Leaving aside the motion for the previous question, which is a superseding motion, there are basically two kinds of amendments that are permitted at second reading: the hoist amendment, and the reasoned amendment.

[Translation]

The hoist amendment seeks to postpone the consideration of a bill by proposing that the bill be read "this day six (or three) months hence". The form of the motion is well established; it was developed in the British Parliament more than two centuries ago to circumvent the narrow meaning of the word "now" in the standard motion for second reading "That such and such a bill be now read a second time". Nowadays, it is more often used to prolong debate since it allows those who have already spoken on the main motion an opportunity to speak again.

A reasoned amendment, on the other hand, provides the means to put on the record, in the form of a motion, a statement or explanation as to why a bill should not receive second reading. By practice, as is explained in the 6th Edition of *Beauchesne's Parliamentary Rules & Forms* at citation 670, on page 200, reasoned amendments fall into one of several categories. Reasoned amendments must be declaratory of some principle adverse to the principles or policies contained in the bill or they may express opinions as to the circumstances connected with the introduction or prosecution of the bill, or otherwise oppose its progress. Furthermore, citation 671(3), on page 201, suggests that the reasoned amendment should not attach conditions to the second reading.

[English]

In the present case, the motion in amendment proposed by Senator Cools does not meet the requirements to be considered a

reasoned amendment. This is because it clearly establishes a condition to be met prior to second reading. The amendment that Senator Cools proposes on December 1 reads as follows:

That Bill S-7 be not now read a second time but be read a second time when the sponsor fulfils the condition required by the law of Parliament that is necessary and preliminary to the passage in Parliament of a private member's bill altering the Royal Prerogative, that preliminary condition being the signification of Her Majesty's Royal Consent to Parliament's consideration of Her Majesty's interests in Bill S-7's proposed limitation and alteration to the manner, form, and style of Her Majesty's Royal Assent in Canada, which is simultaneously an alteration to the Constitution of the Senate.

• (1700)

Accordingly, the motion in amendment is not in order and cannot be put as an amendment to the second reading of Bill S-7.

This, however, does not settle the matter entirely. As I indicated earlier, there are two aspects to this point of order. I have dealt with the reasoned amendment. It is now necessary to address the more substantive question concerning the possible need to signify Royal Consent.

[Translation]

As Senator Cools stated in her intervention, Royal Consent is required whenever a bill proposes to affect either the prerogative of the Crown, its hereditary revenues, personal property or interests. With respect to this case, there is no doubt that the only issue involved with Bill S-7 is that of the Royal Prerogative. The bill contains no provisions relating to the personal property or interests of the Queen. The question to be answered then is whether a bill providing an alternative to the ceremony of Royal Assent touches upon a prerogative power of the Crown.

[English]

In making the case, Senator Cools referred to comments made in the United Kingdom Parliament in 1911. I am not altogether certain how useful this case is as a guide to the present circumstances. The remarks of Lord Lansdowne indicated the need to obtain Royal Consent for bills affecting the Royal Prerogative, but do not provide any indication as to the nature and extent of the Royal Prerogative, particularly with respect to Canada's constitutional practices. However, given the importance of the issue, I decided to look into it further. I felt compelled to do this because of the possible consequences. According to Beauchesne, the question of Royal Consent can be highly relevant to the final disposition of a bill. At paragraph 726(2) on page 213 of the 6th edition, it is stated that the omission of Royal Consent when it is required "renders the proceeding on the passage of a bill null and void."

[Translation]

As many honourable senators will know, this is not the first time that a Royal Assent bill has been debated in the Senate. The Leader of the Opposition sponsored an identical bill in the previous session. In fact, that bill was based on one that had been presented to the Senate some years before by the Leader of the Government at the time, Senator Murray. The bill gave legislative expression to a proposal that had been advanced some years before by Senator Frith, who moved an inquiry on the subject of Royal Assent in 1983 that was subsequently followed up by a committee review. In 1985, the Committee on Standing Rules and Orders presented a report on the practice of Royal Assent that included a recommendation to draft a resolution for a joint Address to the Governor General seeking her approval to modify the Royal Assent ceremony. However, the report was never adopted by the Senate.

[English]

In my research, I also noted that, when the British Parliament adopted a Royal Assent Act in 1967, Royal Consent was signified in both the House of Lords and the House of Commons prior to its passage. In fact, Royal Consent was announced before second reading, as Senator Cools has suggested be done with Bill S-7. On this point, Beauchesne notes at paragraph 726(2) that "Royal Consent is generally given at the earliest stage of debate."

In the next paragraph, Beauchesne goes on to explain, at paragraph 727(1) that "consent may be given at any stage of a bill before final passage; though in the House it is generally signified on the motion for second reading."

Furthermore, it seems that the practice of signifying Royal Consent in Canada has almost never involved both the Senate and the House of Commons. In the numerous instances when the Royal Consent was sought and signified, I noted it was usually signified in the House of Commons and rarely in the Senate. Indeed, I found only one instance where Royal Consent was signified in this chamber. It happened as long ago as 1951, just prior to second reading of Bill 192, to amend the Petition of Right Act.

[Translation]

This Canadian practice of giving Royal Consent in the House of Commons was noted in the parliamentary authority, *Parliamentary Procedure and Practice in the Dominion of Canada*, by Sir John Bourinot as long ago as 1884, when the first edition appeared. Indeed, an example dating from 1886 contained in the fourth edition of 1916 records an example of Royal Consent being signified to a Senate amendment to a Commons private bill in the House of Commons rather than the Senate. This then seems to be an accepted departure from what occurs in Westminster.

[English]

The question is what to do in the present circumstances. As I have already explained, the issue cannot be addressed in the form of the reasoned amendment that Senator Cools proposed. Perhaps it would have been more appropriate to raise the matter as a point of order rather than as an amendment to the second reading motion. Nonetheless, even as a point of order, I have heard nothing that would compel me as Speaker to delay the debate on second reading of Bill S-7. Royal Consent might be necessary; yet, based on the Canadian precedents, it would appear that there is no binding requirement that Royal Consent be signified in this chamber.

Accordingly, I am prepared to rule that the amendment is out of order and that debate on the second reading of Bill S-7 should be allowed to continue. I would suggest, however, that, if this bill receives second reading, the issue of Royal Consent be studied by the committee to which it is referred as part of its examination.

On motion of Senator Poulin, debate adjourned.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Callbeck, for the second reading of Bill S-5, to amend the Parliament of Canada Act (Parliamentary Poet Laureate).—(*Honourable Senator Kinsella*)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to make a few comments in the debate on the principle of Bill S-5, to amend the Parliament of Canada Act (Parliamentary Poet Laureate).

At the outset, honourable senators, I wish to indicate my support of the principle of the bill. I congratulate Senator Grafstein for bringing the matter before us. Traditionally, in Great Britain, the poet laureate is the title conferred by the monarch on a poet whose duty it is to write commemorative odes and verse. It is an outgrowth of the medieval custom of having versifiers and minstrels in the King's retinue and of the later royal patronage of poets such as Chaucer and Spencer.

Ben Jonson seems to have had what amounted to a laureateship from Charles I in 1617, but the present title, adopted from the Greek and Roman custom of crowning with a wreath of laurel, was first given to John Dryden in 1670. Dryden, by the way, honourable senators, was beaten up on one occasion by political opponents for writing a pamphlet they did not like — a dangerous time even for a poet.

In recent years, the ceremonial duties of the position have largely been eliminated. Dryden's immediate successors were Thomas Shadwell, Nahum Tate, Nicholas Rowe, Laurence Eusden, Colley Cibber, William Whitehead, Thomas Warton, Henry Pye, and Robert Southey. Most of these poets, honourable senators, the successors of Jonson and Dryden, were considered hacks and are now forgotten and read by no one. If we do remember Shadwell and Colley Cibber, it is only because Alexander Pope put them in his great and masterful satire, "The Dunciad". William Wordsworth, 1843 to 1850, and Alfred, Lord Tennyson, 1850 to 1892, were genuine and deserving candidates — although arguably none of their great works was written while they held the post of poet laureate. Alfred Austin, 1892 to 1913, is forgotten, deservedly so in the minds of some students of English. Robert Bridges, 1913 to 1930, is remembered only because he had the wisdom not to destroy Gerard Manley Hopkins' poetry when the latter asked him to do so. Bridges published Hopkins, and we still thank him for that, but we do not read or teach his verse. John Masefield, 1930 to 1967, was popular in his time but is now forgotten. Cecil Day-Lewis, 1968 to 1972, wrote some fine poems that still live, but he is best known today as the father of the actor Daniel Day-Lewis. John Betjeman's — 1972 to 1984 — stocks have not recovered, but he was a good critic of architecture.

• (1710)

Ted Hughes, 1984-1998, may he rest in peace, was the best Poet Laureate since Tennyson. While he was not as good a poet as the great Victorian, he was probably a better Poet Laureate. Hughes became Poet Laureate only after Philip Larkin, considered by many to be Britain's best poet of the last 50 years, rejected it. Though widely admired as a poet, Hughes was faulted to the point of ridicule for much of the verse he composed while holding the position. Hughes held the post for 14 years, until his death in October of 1998. The job as Hughes knew it was a lifetime appointment underwritten by a case of sherry and £100. I hope that we can do better than that, Senator Grafstein.

Andrew Motion, the new Poet Laureate of Britain, was chosen by Prime Minister Tony Blair. Motion's appointment would be for 10 years, and there is an annual payment of £5,000, which is Cdn. \$8,100. Motion was seen as the most conventional of the many mooted candidates, and his selection put to rest rumours alarming to traditionalists that Tony Blair, the modernity-minded Prime Minister, might bypass known writers in favour of a "people's poet." Sir Paul McCartney — yes, of the Beatles — was one name mentioned in that context.

The Poet Laureate in Britain is still approved by the Queen but chosen from a short list by the Prime Minister. It is understood to necessitate writing verse about the royal family and on grand national and ceremonial occasions. Where many poets mentioned as candidates for the post balked at this requirement, Motion had

demonstrated his willingness by writing, unbidden, a poem about the death of the Princess of Wales.

The Glasgow poet Carol Ann Duffy said that if she had been chosen Poet Laureate, she would refuse to celebrate in verse any royal events, such as the marriage of Prince Edward and Sophie Rhys-Jones. She told *The Guardian*:

No self-respecting poet should have to. There are so many more interesting things to do with the job.

Could this be a dangerous ground, one might ask, in the Canadian context, given the diversity of our country? One would wonder whether a Quebec poet like Gaston Miron, for example, would be happy about writing a poem for the House of Windsor. Perhaps we could eliminate the necessity of writing poems about the state. I think it would be a step in the right direction. The committee might wish to examine that proposition. This is the route that the Americans have successfully chosen.

When the last Poet Laureate died in Britain, numerous other poets let it be known that they did not want to be considered for the post at all. The reason was that most of them did not want to take the post of Poet Laureate because of this tradition of having to write poetry for the state. The late Irish poet Michael Hartnett once said that the "act of poetry is a rebel act." The poet Paul Durcan became very close friends with Mary Robinson and composed a poem for her inauguration as President of Eire, but Paul is the exception rather than the rule. Seamus Heaney has spent a lifetime writing poems that do not acknowledge the state — for obvious reasons, of course. When a reporter at *The New York Times* called Craig Raine, an Oxford poet, to ask if he was interested in being the next British Poet Laureate, he exclaimed, "Oh God, no," and hung up the phone.

Andrew Motion, who had made it widely known that he would like the job, said that he saw the post as "an extremely complex and interesting challenge for a poet." He has said:

I think that I want to honour the traditional responsibilities, to write poems about royal occasions and so on, but I am also very keen to diversify the job, or at least make those poems part of the wider national issues that I also want to write about.

He said he particularly wanted to promote poetry in schools. He vowed that he would not write poems that are "merely sycophantic or sentimental."

Motion lives in Islington, the North London neighbourhood where Blair lived before moving to 10 Downing Street. He studied at Oxford and holds the creative writing professorship at the University of East Anglia in Norwich. He has published nine volumes of verse, written a well-regarded biography of Keats, and won the Whitbread Prize for his life of Larkin, a poet who declined the laureate position.

Though the post itself is not held in universally high esteem, the race to see who will get it stirs broad interest. The official odds are quoted at William Hill, Britain's biggest betting agency. Besides Ms Duffy, candidates making it onto the agency's list included Seamus Heaney, Derek Walcott, Wendy Cope, Benjamin Zephaniah, James Fenton, Tom Paulin and Geoffrey Hill.

In an editorial welcoming the choice of Motion, *The Times of London* called him:

...a poet of quiet understanding, gentle humanity and lyric force. His is a very British body of work, bound by sea and salt flats, personal loss and the national past.

Honourable senators, I am mindful of the time, but I did want to point out that the position of Poet Consultant to the Library of Congress is the American counterpart. It was founded in 1938 as the Chair in Poetry, and then in 1984 it became the Consultant. Poet Laureates of the United States include great writers like Robert Penn Warren, Richard Wilbur, Howard Nemerov, Mark Strand, Joseph Brodsky, Mona Van Duyn, Rita Dove, Robert Hass and Robert Pinsky. In 1984, Robert Penn Warren was named the first Poet Consultant of the United States, an annual position chosen by the Library of Congress. The appointment is for a one-year term but is renewable.

Many, it is suggested, may tend to agree that Americans have had more success than the British with their Poet Laureate, primarily because they have made the position much more proactive. They have given the post some teeth and connected it with literacy and cultural programs throughout the United States. There is also an attempt to give the position a higher profile by having the Poet Laureate appear on public television and radio, not so much to read his or her own poetry but to read the verse of famous American poets both present and past. This I think might be a far better project than the poet being forced to compose verses for state occasions.

Honourable senators, in conclusion, I repeat that I think that Bill S-5 is a good idea deserving of careful study. It would be helpful to consider whether the title "Poet Laureate" is the most appropriate one. The Americans, for example, call their laureate the "Poet Consultant to the Library of Congress." Some Canadian poets with whom I have consulted in preparing these notes suggested that less colonial and more sensitive or culturally neutral titles are "Poet in Residence at the Parliamentary Library" or "Parliamentary Poet in Residence at the National Library."

Others find the language of Bill S-5 to be from an older and somewhat outdated paradigm. The committee that studies this bill in detail may wish to reflect on this consideration. The committee would also need to consider the nature of the proposed selection committee. It may be helpful to have a poet on the committee. Reference might also be made to poet organizations such as the League of Canadian Poets, the Writers

Union of Canada, the Canadian Authors Association, the Regional Writers Association and others.

• (1720)

Honourable senators, I am confident that Bill S-5 provides the opportunity for developing a uniquely Canadian model that could be very beneficial for the arts community and for all Canadians. The writing community will be supportive of this initiative, I believe, and all Canadians will support this idea if it is developed and presented as something designed within the Canadian context.

[Translation]

Hon. Eymard G. Corbin: Honourable senators, I wish to inform the Senate that I intend to make a contribution to the debate, but later. Perhaps Senator Hays would like to adjourn the debate.

On motion of Senator Hays, debate adjourned.

[English]

IMMIGRATION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Gerry St. Germain, for Senator Ghitter, moved the second reading of Bill S-8, to amend the Immigration Act.—(*Honourable Senator Ghitter*)

He said: Honourable senators, I rise today to begin the second reading debate on Bill S- 8, to amend the Immigration Act, introduced by my colleague from Western Canada Senator Ron Ghitter.

One of the positive features about our rules in the Senate is the system established for the introduction and processing of senators' public bills. When I served in the other place — and I know virtually the same rules apply now — in order for a private member's bill to be debated at second reading, it was required to progress through a number of filters. For a private member's bill to receive second reading and be referred to a committee for study is almost unheard of in the other place.

This bill is concise, to the point and is an easy read. For those who are interested in the issue, I strongly urge them to get a copy of the bill. I am sure they already have done so. It is my hope that, after some debate at second reading, Bill S- 8 will be sent to committee for study. I believe it deserves the time spent on it if only to air out the problems inherent in our immigration and refugee system as presently structured.

Bill S-8 will be familiar to those honourable senators who were in this place in the fall of 1987. Bill S-8 is a re-enactment of Bill C-84, which passed through Parliament at that time. Bill C-84 ceased to have effect on July 1, 1989.

Bill S-8 allows the Minister of Immigration to direct that a boat not enter the internal waters of Canada or the territorial sea of Canada and, where a boat has entered, to direct that boat to be escorted to the nearest port. These, of course, are boats that are bringing into Canada or are suspected of bringing into Canada persons in contravention of the Immigration Act or its regulations. Specifically, proposed section 90.1(1) deals with such boats that are between the 12- and 3-mile limits. It allows the Minister of Immigration to make a direction that the boat not enter "the internal waters of Canada or the territorial sea of Canada, as the case may be," when the minister is satisfied that, first, the boat can return to its port of embarkation without endangering the lives of the passengers, and, second, those who are legitimate refugees have been removed from the boat.

If the boat is within the internal waters of Canada or within the three-mile limit and, again, the Minister of Immigration has reasonable grounds to believe that the boat is carrying persons wishing to enter Canada in contravention of the Immigration Act or its regulations, the minister may direct that such boat be escorted to the nearest port for disembarkation of those on board.

This bill was introduced in its original form in 1987 as a reaction to two events. In 1986 and 1987, two separate boatloads of people came to Canada. The first contained Tamils, who landed in Nova Scotia in 1986. The second contained East Indians, who landed in Newfoundland in 1987. Now we are dealing with boatloads of people from China arriving on our West Coast, brought here by racketeers or human smugglers.

This bill, when passed and brought into force by an order of the Governor in Council, will give the Minister of Immigration the power to deal with the situations that are occurring off the coast of British Columbia. It will also send a clear message to human smugglers and to countries that condone and encourage these acts of smuggling that Canada's immigration and refugee laws will be enforced and that Canadians will not tolerate these abuses of our system.

Honourable senators, I was in the other place when the predecessor to Bill S-8 was passed and am aware of the arguments against its passage. Those who opposed the passage of Bill C-84 at the time said it was unworkable. I say we must find a way to make it work. Whether it involves carrying out interviews on the boats at sea before they are turned around or by some other means, we must find a way. It is my belief that Canada must send a clear message to deter those who would profit in the smuggling of human cargo.

As all honourable senators remember, the events of this past summer off the coast of British Columbia made Canadians angry because we felt the most open immigration and refugee system in the world was being abused. Canadians wanted the government

to stand up and tell those racketeers who were bringing people to Canada in dilapidated boats that we would not tolerate such behaviour and such abuse of our laws.

The government did nothing. It did not act to deter this behaviour, unfortunately.

The Minister of Immigration announced two weeks ago that she will be introducing a new immigration bill in the other place early in the new year. A discussion of this bill, both in this chamber at second reading and in committee, will help us prepare for the new immigration bill. I look forward to hearing the continued debate on this bill and, hopefully, interventions by those senators who make their homes on either of Canada's coasts.

Honourable senators, this is an insult to those people who are waiting to enter our country as legal immigrants. We as Canadians can offer no greater gift to the world than citizenship in our country. The sovereignty of our nation basically lies in our ability to control our borders.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I move the adjournment of the debate.

Hon. Eymard G. Corbin: Honourable senators, I understand the motion is to adjourn, but I question how we proceeded to this debate in the first place. The motion stands in the name of Senator Ghitter. We are on day 14 and another senator was the first to speak to the item. It is the absolute privilege of the senator who wishes to introduce an item of this nature to have the first go at it.

I do not know if Senator St. Germain was speaking on behalf of Senator Ghitter. I suppose they talked with each other. Was the honourable senator reading Senator Ghitter's speech? Is that what happened?

• (1730)

Senator St. Germain: Honourable senators, not at all. I was speaking on my own behalf. I discussed with Senator Ghitter that I would be speaking to this matter. He deferred to me, allowing me to be the first speaker at second reading. I took this opportunity to do so. If that contravenes the rules of this place, then I am sure that, as others have said, we are the masters of our own house, and can rectify the situation.

The Hon. the Speaker: Honourable senators, to clarify, the Honourable Senator St. Germain rose to move the motion for Senator Ghitter. It was moved by the Honourable Senator St. Germain, seconded by the Honourable Senator Cohen, on behalf of Senator Ghitter, that the bill be read the second time. Therefore, the situation is quite in order. Senator St. Germain had the authority of Senator Ghitter to proceed in this manner.

On motion of Senator Hays, debate adjourned.

AIR CANADA

ORDER IN COUNCIL ISSUED PURSUANT TO THE CANADA
TRANSPORTATION ACT TO ALLOW DISCUSSIONS ON
PRIVATE SECTOR PROPOSAL TO PURCHASE AIRLINE—
REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ON
STUDY—DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Transport and Communications (airline industry restructuring), presented in the Senate on December 9, 1999.—(*Honourable Senator Bacon*)

Hon. Lise Bacon: Honourable senators, I should like to express my gratitude to the deputy chairman of the committee, Senator Forrestall, and to all senators who participated in the work of the committee.

Over the past two months, senators have listened carefully to the testimony of the various groups who appeared before us. We diligently questioned the witnesses who testified before the committee and seriously debated every aspect of the report. I believe we can be proud of the work we have accomplished.

Our report is balanced and reflects what the witnesses told us. Members of the committee should take pride in the fact that they, at the end of the day, agreed to speak with one voice which, once again, reflects on the quality of the work done by the Senate.

[*Translation*]

Through these recommendations, the committee sought to protect the interests of Canadians throughout the country. The members of the Standing Senate Committee on Transport and Communications hope that these recommendations will ensure Canadians, both in the short and long term, effective, safe and affordable air services.

In the coming months, the Canadian skies will undergo considerable changes, and we hope our recommendations will minimize the impact of these changes on the services provided to Canadians. For example, we propose ways to ensure that the dominant air carrier that will emerge following the ongoing restructuring will not unduly increase airfare. We also insisted that sections 64 and 65 of the Canada Transportation Act be strengthened to guarantee that the dominant carrier will continue to provide the services currently being provided to Canadian communities.

Our recommendation on bilingualism, to the effect that all services provided to the public by the dominant carrier and its affiliates be governed by the Official Languages Act, also reflect our will to ensure that the essential services which Canadians should expect are indeed provided.

Like the Competition Bureau, the committee expressed concerns about the possible lack of competition in Canada's airline industry. This is why several of our recommendations

reflect in part or in full suggestions made by the Competition Bureau.

[*English*]

The committee recommends that the dominant owner carrier commit to surrendering sufficient slots in key locations to allow effective competition. The committee also recommends that the new regulatory framework for slots be established by Transport Canada so that they be surrendered if not used, and that enough slots be available for new entrants.

With the aim of helping small carriers offer effective competition, the committee would ask that the government revise the computer reservation system regulations with a view to eliminating the features which work to the disadvantage of small carriers.

The dominant owner should also be required to allow new entrants to purchase frequent flyer points at a reasonable cost. It should also be required to negotiate interline and code sharing agreements on reasonable terms with new entrants in the domestic market wanting such agreements.

The committee discussed at length the possibility of allowing domestic competition from foreign-owned airlines. The committee rejected the notion of pure cabotage, but showed some interest in allowing modified sixth freedom rights. It thus recommends that the government negotiate with the United States to allow through ticketing from one point in Canada to another through a U.S. intermediate stop.

[*Translation*]

The committee hopes the Canadian airline industry will flourish. That is why it has agreed in part with the argument of many who think it would be better to raise the limit on individual holdings of Air Canada voting shares.

Some people believe an increase in the concentration of common share ownership would improve financial performance. The committee would like our airline industry to remain in Canadian hands. Senators represent all regions of our vast country, and they are in a position to appreciate the importance of the airline industry in Canada.

In such a large country, the airline industry is not a luxury, but a necessity. That is one of the reasons why we have decided the limit on individual holdings of voting shares should not be raised beyond 20 per cent. This limit will enable shareholders to better monitor the performance of management, while at the same time limiting the risk of a foreign takeover.

We have also suggested that the government exercise its discretion to raise the limit on maximum foreign ownership in a Canadian airline from 25 per cent up to 49 per cent. This would facilitate access to new capital for small carriers, who could enhance services provided to Canadians.

Also, increasing foreign ownership of Air Canada by more than 25 per cent could jeopardize Canadian control over our main national carrier. Meanwhile, the committee is concerned about the employees that will be affected by the ongoing restructuring.

We urge the government to pressure the dominant carrier to ensure that employees are treated fairly in terms of job security and severance conditions if it comes to that. Special attention should be given to seniority lists.

Finally, the committee believes that, for the government to efficiently monitor the commitments that it would ask of the dominant carrier, the carrier should account for its operations through a public forum such as hearings held once a year by the Canada Transportation Agency, in cooperation with the Competition Bureau, and that the outcome of such hearings be referred to the House of Commons transport committee and the Standing Senate Committee on Transport and Communications.

[English]

Honourable senators, I believe this is a good report. Our goal was not to protect shareholders' interests but to protect all Canadian consumers in all regions of the country.

Members of the committee had heated debates about a number of issues. However, in the end, we managed to produce a balanced report which is testimony to the quality of our work in the Senate. Once again, it shows how our institution can play its role as an independent parliamentary institution. I salute every senator who attended our meetings and participated in our work. They made this report possible.

Hon. J. Michael Forrestall: Honourable senators, it gives me some pleasure to rise today to participate in the debate on the standing committee's report entitled, "Airline Restructuring in Canada." It is hardly an accurate title. However, it does reflect work that must be done by either this chamber or the other chamber before very long.

• (1740)

Honourable senators, I wish to congratulate the chair of the committee, Senator Bacon, for the way in which she conducted both our public hearings and the sessions spent in drafting this report. It is not an easy task to deal with hearings and a report when the scene upon which you are reporting is continuously changing. That is exactly what happened as the committee continued with its work. She did an excellent job, and I congratulate her for it.

This government has often been criticized for lack of action, dropping the ball, of not coming up with new ideas, of living on

the accomplishment of previous governments and, with its recently tabled legislation on referendums, of creating crisis where none exists. Seriously, however, absolutely nowhere has this lack of action or lack of anticipation of problems been more apparent than in the way that it has dealt with or, in reality, ignored the air transportation industry in Canada. The possibility of a dominant or monopoly carrier had been with us for some time. Only when the so-called "crisis" seemed imminent did the government attempted to act. You may ask: How did it act? It acted by suspending the involvement of the one agency in Canada which really has a grasp of competition issues. I refer here, of course, to the Competition Bureau of Canada. The government suspended its involvement in the merger and subsequently in the takeover led by Onex, which failed to come to fruition.

We must ask ourselves why it acted in this way. The response must be: We just simply do not know. What was the extraordinary disruption of the national transportation system that was imminent? What evidence did the minister have? We do not know. What is more important, not one single witness before us, although all were asked, provided an answer to any of those questions. That is, perhaps, why the committee concluded, as it did, that it was not fully convinced that the use of section 47 of the Canada Transportation Act was appropriate in this situation.

Honourable senators, we could have stopped there. It is interesting to note that some argued that, perhaps, we should have done so. However I believe, as do many of my colleagues on the committee, that we would have been doing a disservice to Canadians and to the Senate if we had terminated our hearings even though we had decided that the use section 47 was in appropriate. We would have been ignoring the reality of the changing scene in the area, which was taking place while we met and continues to take place this very day. Policy questions were put to the community by the minister and in our pursuit of an answer to the section 47 issue, we also received evidence on all of these policy matters.

A personal goal of mine in all of this was to remind committee members that the commitment of the previous government, which continues under this government, was to deregulation and not to regulation. The public interest must be protected, but not through the return to a regulatory environment. Our report reflects a conclusion that, for the most part, the Competition Bureau should be the agency involved in protecting the public interest in air travel in Canada. Leave the Canadian Transportation Agency with the task of ensuring the safety of the new entries and new airlines, but leave the monopoly issues that require the protection of the travelling public to the Competition Bureau. This will involve moving from the National Transportation Agency to the Competition Bureau a section of that agency that is the repository of the expertise in this field, but it should be a competition-driven concern.

Honourable senators, my colleagues and myself were impressed with the work done in a short period by the Competition Bureau in this matter. In fact, its report formed a large basis of our report on the airline industry which is now before us. The suggestion to ensure competition made by the bureau is imaginative, demonstrating that it can react quickly to a situation. Quick reaction is vitally necessary to an industry which requires the investment of billions of dollars in capital assets and requires immediacy in determining where the financial resources should be invested, and in what way.

In the time available to the committee, it did a credible job. I will not go into the detail of the recommendations, as in many instances I would only be repeating what we have just heard from the chair. Suffice it to say that we could have dealt in more detail with the divestiture of regional airlines by the monopoly carrier. This is a matter which the Competition Bureau should reflect upon in some depth, as it would be appropriate to require the divestiture of the regional airlines. Here, I am talking about competition.

Canada is a vast country. Some parts are only reachable by air at certain times of the year. We must ensure continued air access to remote parts of this country, no matter what the outcome of the present airline takeover discussions. Of course, I include in the definition "remote" those areas of Canada with smaller populations such as the interior of British Columbia, the Atlantic provinces, and other areas.

The committee also did not express, as strongly as I would have liked or certainly as strongly as Senator Roberge would have liked, its opposition to the Air Canada-Hamilton proposal. A monopoly carrier running a low-cost, no-frills airline out of a majority city in central Canada surely would doom any future competition from other airlines that may have plans or may have had plans to establish a similar service in that part or any other part of Canada.

Honourable senators, there is no point now in speculating on the curious role played in all of this by the Minister of Transport. It is sufficient to say that it was void of policy. The necessity of invoking section 47 of the CTA, when no evidence existed that we were able to gather, leaves history to deal with his role and his lack of leadership. What is important now, honourable senators, is that the Minister of Transport act to protect the interests of the travelling public in Canada from price gouging, from withdrawal of service and, above all, from a lowering of safety standards. He could do no better than to pay close attention and implement the recommendations contained in the report of the Standing Senate Committee on Transport and Communications on airline restructuring.

I thank you for your attention. I would ask that the adjournment of the debate stand in the name of Senator Johnson.

On motion of Senator Forrestall, for Senator Johnson, debate adjourned.

[Translation]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Internal Economy, Budgets and Administration (budgetary situation pertaining to committees), presented in the Senate on December 9, 1999.—(*Honourable Senator Rompkey, P.C.*)

Hon. Pierre Claude Nolin: Honourable senators, I move the adoption of the report.

Motion agreed to and report adopted.

[English]

• (1750)

THE ESTIMATES, 1999-2000

NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY ESTIMATES

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Beaudoin:

That the Standing Senate Committee on National Finance be empowered to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2000; and

That the Committee present its report no later than March 31, 2000,

And on the motion in amendment of the Honourable Senator Robichaud, P.C. (*Saint-Louis-de-Kent*), seconded by the Honourable Senator Hervieux-Payette, P.C., that the motion be amended by adding, after the words "Estimates for the fiscal year ending March 31, 2000", the following:

"with the exception of Fisheries and Oceans Votes 1, 5 and 10;

That the Standing Senate Committee on Fisheries be authorized to examine the expenditures set out in the Estimates for Fisheries and Oceans for the fiscal year ending March 31, 2000; and

That the Committee report no later than March 31, 2000."—(*Honourable Senator Stollery*)

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, Senator Murray is not in the chamber. This order deals with his motion and the amendments moved by Senator Robichaud. We are, however, in a position to deal with this matter now. I would seek guidance from my counterpart as to whether we should deal with it in the absence of Senator Murray.

Hon. John Lynch-Staunton (Leader of the Opposition): We should wait for Senator Murray since he has some disagreement with Senator Robichaud's amendment that we segregate the fisheries Estimates. We would rather proceed with agreement.

Hon. Fernand Robichaud: We can proceed now.

Senator Hays: As I understand the arrangement, it was that Senator Robichaud would withdraw his amendment, with leave, so that Senator Murray's motion could be dealt with. Senator Robichaud will move, at the first opportunity, presumably tomorrow, a motion that the subject matter of those Main Estimates be referred to the Fisheries Committee as they apply to the Department of Fisheries.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, if we proceed step by step, we will get to where we are heading.

The Hon. the Speaker: I am not quite sure what that means. Is there a request to withdraw the motion in amendment?

[Translation]

MOTION IN AMENDMENT WITHDRAWN

Hon. Fernand Robichaud: Honourable senators, I wish to withdraw my motion to amend the motion by Senator Murray. However, I give notice that, when it comes to consideration of the Estimates for the year ending March 31, 2001, we will certainly find a formula whereby the Standing Committee on Fisheries can examine these estimates. And it will be a formula that I am sure will meet with the approval of the Standing Committee on National Finance.

Hon. Roch Bolduc: Honourable senators, I would like to express the view of the Standing Committee on National Finance on this matter. I am aware of the issue.

The Hon. the Speaker: Just a minute.

Senator Bolduc: Senator Murray is not present.

The Hon. the Speaker: The Honourable Senator Robichaud, P.C., Saint-Louis-de-Kent, is requesting leave of the Senate to withdraw his motion in amendment. Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion in amendment withdrawn.

The Hon. the Speaker: Honourable senators, we are now back to the motion by Senator Murray. I am prepared to hear from Senator Bolduc.

Senator Bolduc: Honourable senators, I do not wish to take the place of Senator Murray, but I would like to point out that, except for a few exceptions in recent years, the general mandate of the Standing Committee on National Finance has always been to examine all budgetary forecasts, and that is as it should be.

However, if a particular standing committee, such as the Standing Senate Committee on Agriculture and Forestry or another committee, wants to examine the estimates for the Department of Agriculture or whatever, there is no problem. But the mandate should not read "with the exception of". The mandate of the Standing Committee on National Finance should be a general one and should be a general mandate, and should not be changed. The Standing Committee on National Finance does not necessarily examine all programs. It tries to examine federal public spending from the point of view of administrative policy in particular, so that its mandate cannot be limited. The mandate must be general with respect to votes and forecasts, but this does not prevent a Senate committee from examining programs in the areas of health, fisheries and so forth. This is what Senator Murray would have argued. There has been a long-standing tradition. When I first became a senator, Senator Everett was the Chair of the Standing Senate Committee on National Finance and continued in that position for years. That was how it was understood. There is much wisdom in it.

The Hon. the Speaker: Honourable senators, shall we adjourn the main motion until the next sitting of the Senate?

Senator Bolduc: Honourable senators, I move that the debate be adjourned.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I think it is in order to put the question. In saying that, I listened to Senator Bolduc. When this order was called, I indicated that I believed that the matter of the moment could be resolved fairly easily by taking the steps that are being taken. As to the future, it may be a little more difficult.

I certainly think we should try to accommodate the Department of National Finance and this is a way that can be done. If the Fisheries Committee examines the expenditures related to the Department of Fisheries and Oceans, that would also accommodate Senator Robichaud's request and will not interfere with what Senator Murray wants.

That is not to say that we are setting a precedent in proceeding in this manner but, for now, it is an appropriate solution to the situation before us. We should proceed with the question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ORGANIZATION ON SECURITY AND COOPERATION IN
EUROPE—EIGHTH ANNUAL MEETING OF PARLIAMENTARY
ASSEMBLY HELD IN ST. PETERSBURG, RUSSIA—INQUIRY

Hon. Jerahmiel S. Grafstein rose pursuant to notice of November 30, 1999:

That he will call the attention of the Senate to the report of the Canada-Europe Parliamentary Association to the Eighth Annual Session of the Organization for Security and Co-operation in Europe Parliamentary Assembly (OSCE PA), held in St. Petersburg, Russia, from July 6 to 10, 1999.

He said: Honourable senators, as I sat in the palace at St. Petersburg this past May, at the OSCE Parliamentary Assembly, I pondered the fate of foreign affairs in this century. As we approach the new millennium, can one fairly measure briefly and calibrate concisely foreign policy in this last century? What is the work of foreign policy? It is to make the world a safer, more peaceful place. Yet, war predominated foreign policy.

This century started with such high hopes. One hundred years ago, in 1899, from St. Petersburg, Czar Nicholas II of Russia issued a clarion call to the international community for a convention to set international arms limitations and create a new international tribunal to settle disputes between states by consensual arbitration. This he hoped would bring peace to this new century, after the 19th century had been racked with war and left over 16 million dead.

Later that year, in 1899, at the czar's urging, an international conference was convoked in The Hague. Indeed, that landmark conference established international arms limitations especially banning aerial bombs, as well as an international court to arbitrate disputes between states on a consensual basis.

Unhappily, less than one year later, in 1900, this message of hope went unheeded. The race for military supremacy was on. Dreadnought construction, first by Germany and then by England, accelerated the naval arms race. This awesome technology — the Dreadnought — became one of the root causes of World War I. The first decade witnessed both the Russian-Japan War and the Boer War. Early outbreaks of unrest in the Balkans lead to the Balkan Wars in 1912 and 1914, then came the infamous Armenian Massacre. This in turn was followed by World War I and a new phrase in the lexicon of death: "World War".

In 1917, the Russian Revolution erupted. While 1918 marked the end of World War I, the Polish-Russian War broke out, and the Irish troubles started its ascent. Two new words of hope were added to the lexicon of death after World War I by President Woodrow Wilson: "self-determination".

Meanwhile, unrest in China percolated, leading to the Chinese Civil War throughout the 1930s and 1940s. Inside the USSR in the 1930s, while communist fellow travellers and others in the

world looked on, massive purges of untold millions unfolded to sustain the Bolshevik party's monopoly of power. Imitating communism, Nazism and fascism raised their bloody banners which animated the Ethiopian occupation in Africa. The League of Nations, with Canada's help, faltered and floundered. Enter the Spanish War, and the clash of communism and fascism, leading to the threshold of the Second World War; first in Europe and then in Asia. We remember the Holocaust. It remains beyond our imagination. We recall the horror of Hiroshima and Nagasaki.

• (1800)

In 1945, the planet appeared exhausted by the stench of war, but there was no pause in the slaughter. Revolutions broke out on the East Asian, African, and South American continents in the 1940s. The 1940s became the first host of endless Middle East wars. The 1950s brought us the Korean War and the acceleration of war in Indochina.

The Hon. the Speaker: Senator Grafstein, I regret to interrupt you, but it is now six o'clock. What is the wish of honourable senators?

Hon. Dan Hays (Deputy Leader of the Government): I move that Your Honour not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Grafstein: At the end of the 1950s, we witnessed the Cuban Revolution, smartly followed by the Chinese Cultural Revolution, the Vietnam War, the Cambodian massacres and the Angolan wars. In the 1960s, the Irish troubles ignited yet again, having persisted for eight decades. The 1970s continued with at least 37 war-like clashes around the globe.

Enter the 1980s, with the Iran-Iraq War, where, by the way, over 1 million people, including boy soldiers, were killed. More people were killed in that war than in all of the wars in the Middle East since the beginning of the century, all over a few miles of sand.

The 1980s witnessed the Afghanistan War, the tribal wars in Somalia, the Iraq invasion of Kuwait which led to the Kuwait War, tribal warfare in Rwanda, Nigeria, along the Congo and in the Sudan, and the outbreak of civil war in Indonesia, East Timor, and South and Central America.

Honourable senators, this awesome catalogue of perpetual wars is not exhaustive. However, there was hope — the USSR empire disintegrated.

Then in came the wonderful 1990s, this last decade, after the "Wall" came tumbling down. The sudden breakup of Yugoslavia, triggered by the Western-induced separation of Croatia, led smartly to the wars in Serbia, Bosnia and ultimately Kosovo, and with it the impotency of the United Nations.

As we approach the millennium, it is estimated that there are still over 24 wars raging across the globe, mostly in Africa but some in Eurasia. Does it not seem, looking back, that much of our lives in this century was celebrated by staccato intermezzos between wars? Where were we before the war? What did we do between the wars? What did we do during the Vietnam War, and so on?

Our literature became obsessed with actions and reactions to wars. Why, then, should we note the work of the OSCE and other bodies dedicated to democracy through peaceful means when we cannot help but look backward over this century, pockmarked as it is by death, all in the name of the state or in the defence of a faith?

In 1994, Zbigniew Brzezinski, the former security advisor to President Carter, estimated there were 164 million deaths of innocent victims and soldiers in this century. I have estimated that a closer number from these violent outbreaks could reach almost 200 million deaths in this century alone. Every decade has seen an escalating increase in technological violence, in mindless death, dismemberment and wanton destruction.

What then, honourable senators, are we to do? What can we do? Has the human condition advanced in this century? Tolstoy gave some early guidance. He once wrote that all we can hope for is to cut small clearings in the dark forest. This we have attempted to do at the OSCE since the Helsinki Accord some 30 years ago. In that accord, sanctity of state sovereignty was modified by sanctity of the individual.

Fifty-five countries have signed the Helsinki Accord, including Canada and the United States. By this accord, the state, in the eyes of international law, lost its monopoly on violence, yet the residue of state sovereignty remains in the twisted minds of some political elites in the former Yugoslavia, in the Caucasus, in the former USSR, the Indian subcontinent, Chechnya and in large spaces of Africa.

In a simply remarkable speech given recently by the Secretary-General of the United Nations, Kofi Annan, he acknowledged the UN's culpability and that of its member states for passing resolutions holding out safe havens, as the UN did in 1995 in Srebrenica, following which the international community stood idly by watching the Serbian slaughter of over 7,000 innocent victims who, with belief and conviction in the words in the international community, raced headlong for protection under the blue and white flag of the United Nations only to be helplessly slaughtered while the TV cameras looked on.

Recently, we reviewed UN resolutions in East Timor, grandly encouraging independence, then noticed that the UN watched idly while one third of the population was slaughtered in the belief that the UN would stand by the words of their resolutions.

Did the resolutions of the United Nations exacerbate the East Timor killing field where over 200,000 people of that impoverished territory were killed by the state might of Indonesia?

Imitation is the best compliment. The NATO action in Kosovo invited Russia to follow suit in Chechnya.

What a shameful history. Five million deaths in the 18th century increased to 16 million deaths in the 19th century, to at least 200 million deaths in the 20th century.

The late Cecil Augustus Wright, the dean of my law school, quoted Mr. Justice Felix Frankfurter at the opening of the University of Toronto Law School in 1967. He said:

Fragile as reason is, and limited as the law is as the expression of the institutionalized medium of reason, that's all we have standing between us and the tyranny of mere will and the cruelty of unbridled, undisciplined feeling.

Yet, we have learned that even the rule of law is helpless and hopeless without the power to uphold it. That is the one miserable and paradoxical lesson of the 20th century.

Honourable senators, should we not wish for the next millennium that the rule of law respecting the sanctity of the individual becomes the norm rather than the exception, supported by political will and political power? Yet optimism is thin gruel when the United States, the only superpower and the world leader of democracy, refuses to enter into an international agreement to pursue war criminals by an international tribunal, or a conventional arms agreement on mines, or even the ratification of a nuclear treaty. These were auspicious setbacks to world peace in the 1990s. We can only despair and then regroup to see if we can invent, in the next millennium, a better century than that which we inherited and that which we squandered.

Honourable senators, Elie Wiesel, who, before it was popular, lifted the torch of memory in this barbaric century, recently published the second volume of his memoirs entitled *And the Sea is Never Full*. He reminds us that, in Genesis, when Adam fled after having tasted the forbidden fruit, the Lord called out, "Adam, where are you?" If God is everywhere and "all knowing," why would God have to ask where Adam stood? We are told God knew where Adam was. God demanded that Adam confess where Adam stood in this world. Where is your place in history? What have you done with your life? These questions each of us can only answer in our own way.

We must question the work of each organization dedicated to peaceful reconciliation of disputes. We must repeatedly ask ourselves and others the simple question: Where do I stand? Where do we stand? I hope the answer we receive in the next century will be better than the last. May the next generation improve on our work. The threshold from this century is certainly not very high.

Is there a deeper truth we neglect on foreign policy? In 1979, Elaine Pagels, an eminent Professor of Religion at Princeton University, published an elegant exegesis based on ancient manuscripts written over two millennia ago and discovered in 1945 in the Egyptian desert entitled *The Gnostic Gospels*. Then in 1995, Professor Pagels published a further study entitled *The Origin of Satan*. Perhaps in these two texts lies one answer to the riddle of barbarism buried within the human condition. Professor Pagels illuminates the origins of the demonization of "others" first by a faith and then imitated by the secular state. We have only started to fathom the causes of evil harboured in the hearts of men and women. Does evil lie more deeply etched and indelible within the psyche of those who hold power and yet remain silent, inert or, worse, disinterested in the barbarism committed against others before their very eyes? Is this the curious moral of the last millennium — seeing not doing — and the hope for the next millennium — words to match deeds?

• (1810)

Is there not a surreal paradox in what I have advocated? I argue that war brings death, yet I advocate more war to uphold peace, which brings me to the puzzle of my own conclusions for this century.

Last Sunday, Joseph Heller, the American author of *Catch-22*, died. One critic wrote:

The theme of *Catch-22* is the total craziness of war, the craziness of all those who submit to it, and the struggle of one man: Yossarian, who knows the difference between sanity and the insanity of the system.

Honourable senators, let me quote ever so briefly from the book *Catch-22*:

"You mean there's a catch?"

"Sure there's a catch," Doc replied. "Catch-22. Anyone who wants to get out of combat duty isn't really crazy."

There was only one catch and that was Catch-22, which specified that a concern for one's own safety in the face of dangers that were real and immediate was the process of a rational mind.

Orr was crazy and could be grounded. All he had to do was ask; and as soon as he did, he would no longer be crazy and would have to fly more missions. Orr would be crazy to fly more missions and sane if he didn't, but if he was sane he had to fly them. If he flew them he was crazy and didn't have to; but if he didn't want to he was sane and he had to. Yossarian was moved very deeply by the absolute simplicity of this clause of Catch-22 and let out a respectful whistle.

"That's some catch, that Catch-22," he observed. "It's the best there is," Doc agreed.

Honourable senators, this is the best that I can render as we draw to a close of this century and this remarkable millennium.

[Translation]

The Hon. the Speaker pro tempore: If no other senator wishes to speak, I declare the debate on this inquiry closed.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL— INQUIRY—DEBATE ADJOURNED

Hon. Marie-P. Poulin, having given notice on Thursday, December 9, 1999:

That she will call the attention of the Senate to the decision of the Government of Ontario not to adopt a recommendation to declare the City of Ottawa bilingual following its proposed restructuring.

She said: Honourable senators, on December 7, I said how surprised and disappointed I was that the linguistic duality of the capital of this bilingual country had not been recognized in the regional restructuring legislation currently under consideration at Queen's Park. On Thursday, December 9, I tabled a notice of inquiry. Why did the Government of Ontario decide not to adopt the recommendation made by its advisor, Glen Shortliffe?

What message are we sending to the Canadians everywhere in the country? What respect are we showing for the Canadian Constitution? What kind of recognition are we offering to linguistic minorities in Ontario, in Quebec, in the Atlantic provinces, in the West and in the Far North? What respect are we showing for Ottawa, home of the Parliament of Canada, for the federal public service, for the embassies around the world? Honourable senators, a good number of us would like to speak to the many questions raised by my inquiry, including Senator Jean-Robert Gauthier.

[English]

Honourable senators, lend Senator Gauthier your ears. His 40 years of dedication to the fundamental principle of respect for the history of our country and for the unique nature of our two founding cultures will serve us well in this inquiry. Meanwhile, I will keep my substantive remarks for my speech which will close this inquiry later.

[Translation]

Hon. Jean-Robert Gauthier: Honourable senators, I would like to begin by thanking Senator Poulin for her kind words. This is a rather touchy and, to be frank, frustrating subject. As a native of Ottawa who has never left it, I find this debate a painful one. On December 6, the Government of Ontario introduced a bill on the amalgamation of the municipalities in Ottawa-Carleton and other Ontario regions into single cities.

The legislation relating to Ottawa-Carleton is based in large part on the report by Mr. Glen Shortliffe, a provincially-appointed consultant hired to study local reform. His report was released on November 26, 1999, and contained numerous recommendations on the new city.

One of these proposed that the new amalgamated City of Ottawa should be institutionally bilingual. The province chose not to heed this recommendation on bilingualism for the capital of this country. The legislation provides that the city, once organized, will have the authority to determine its own language policies.

At the present time, five cities in the National Capital Region are bilingual, namely Cumberland, Gloucester, Ottawa, Vanier, and the Regional Municipality of Ottawa-Carleton. In his report on restructuring, Mr. Shortliffe recommends that the City of Ottawa — this is the new official name — be bilingual.

In the preface to his report, he describes this region as a unique mosaic of francophones and anglophones. He justifies his recommendation by stating:

One of the most important issues raised during public consultations was the question of institutional bilingualism. Over 15 per cent of the new City of Ottawa will be francophone. Ottawa is a unique city in this province and in this country, since it is the capital of Canada.

We know that our nation has two official languages. The national government operates under the Official Languages Act, in both English and French. The National Capital must reflect the character of the entire country, and must acknowledge the presence within its population of a sizeable francophone minority. Quoting Mr. Shortliffe again:

I recommend that the enabling statute establish and designate the City of Ottawa as officially bilingual, in French and in English.

I should point out that Mr. Shortliffe explicitly recommended that the new city be designated as bilingual by the Ontario legislature and not by Ottawa's new municipal council. Moreover, Mr. Shortliffe noted that it will be up to the City of Ottawa's senior council to determine the scope and nature of the services that will be available in both official languages of the country.

It is true that under the Canadian Constitution, municipal governments are exclusively a provincial jurisdiction. In the case of the Ottawa-Hull region, there is another level of authority established by the federal government called the National Capital Commission, that is the National Capital Region.

In 1958, the Parliament of Canada passed a bill entitled the National Capital Act, which came into effect on February 6, 1959. It provided for the development and improvement of the National Capital Region, an area of 1,800 square miles that includes the City of Ottawa, part of the Province of Ontario and

part of the Province of Quebec. The region surrounding the City of Ottawa is described as the seat of the Government of Canada. The act established the National Capital Commission, which replaced the Federal District Commission. The authority to establish the National Capital Region was given by the residual constitutional power to pass laws for peace, order and good government.

There are a number of options to correct the decision made by the Province of Ontario regarding bilingualism in the national capital. The courts may use them to clarify the issue. I am not a lawyer, but I am convinced that there will be problems. Provincial legislatures have the power to pass legislation concerning municipalities. The Government of Ontario was free to accept or reject Mr. Shortliffe's recommendation. Still, the recent ruling of the Ontario courts regarding the Montfort Hospital could be used as an argument. As you all know, the ruling made by the Divisional Court has been appealed, and I hope that some day we will get justice regarding health services in Ontario.

On November 29, 1999, the Ontario Divisional Court unanimously struck down a directive by the Health Services Restructuring Commission ordering the Montfort Hospital to be closed as a general hospital and turned into a large clinic. The court ruled that the Montfort Hospital was necessary to preserve the francophone community in Ontario. It said the Commission was not at liberty to ignore the constitutional role played by the Montfort Hospital as a truly francophone centre necessary to promote and enhance the Franco-Ontarian identity. The francophone minority in Ontario is a cultural and linguistic entity and it needs its institutions to protect its culture and language from assimilation.

The judges said that the Government of Ontario must respect the principle of minority protection in all its actions. It agreed that francophones have a constitutional right to protection from assimilation as one of the founding cultural communities of Canada and as one of the two official language groups whose rights are entrenched in the constitution. The court ruled, and I quote:

...given the principle of minority protection — particularly, francophone minority protection — is an independent principle underlying the constitution, and one...which is binding upon governments, the Court must intervene, where necessary, to protect against government action which fails to recognize that principle.

There are those who view the ruling handed down in the Montfort Hospital decision as an unacceptable example of militant action by the judiciary. The *National Post* explored this view. If you are interested, read what it had to say, but do not lose your temper. Others feel that it may provide a powerful weapon for the protection of minority rights. Many of the arguments in the decision were based on two recent Supreme Court of Canada rulings, the *Reference on Quebec Secession*, and *Beaulac*, where the court upheld the right of a British Columbia man to a bilingual trial.

Yesterday, we learned that the Health Services Restructuring Commission requested authorization to appeal the decision handed down by the Divisional Court in the Montfort Hospital case. The government indicated its unconditional support for such an appeal.

Even if court action did not manage to force the Government of Ontario to designate the new City of Ottawa officially bilingual, it might be useful in terms of public policy. It would certainly have the effect of making the issue better known. If it happened to slow down the amalgamation, pressure would be put on the provincial government; on the other hand, there is a risk that it might trigger opposition and resentment among those who insist that the issue of amalgamation be settled once and for all.

The purpose of the Senate is to represent the country's regions and particularly to protect minorities. A motion could be tabled in the Senate calling for the Government of Ontario to designate the new City of Ottawa officially bilingual. It might be worth pointing out in this connection that the Quebec National Assembly has adopted a similar motion. The federal Parliament may not wish to interfere in a clearly provincial matter, but the Government of Ontario shows no hesitation in interfering with federal affairs as far as taxation is concerned. It is making recommendations to us just about every day to lower taxes. If that is not provincial interference, I do not know what it is.

In addition to the fact that there is a sizeable francophone minority in the Ottawa region, the courts are increasingly recognizing the protection of minorities as an underlying principle to the Constitution and one with constitutional value.

The recent decision on Montfort Hospital raised the question as to whether francophone education is to be replaced by a bilingual institution. The Ottawa amalgamation project, however, concerns more than just the issue of bilingualism. Nevertheless, it is significant that certain of the municipalities to be amalgamated, in particular Vanier, Gloucester and Cumberland, have a sizeable francophone population and a long tradition of official bilingualism. The lack of protection of these communities in the new city of Ottawa raises questions similar to those raised by the Montfort issue.

The new City of Ottawa could always just be left to decide whether it wanted to be declared officially bilingual. It might choose not to, or it might go back on its decision later on. For greater assurance, it would be better for the enabling provincial legislation to address the issue.

The issue of bilingualism can be a highly controversial one, like the David Levine matter and the Montfort Hospital. It would be more responsible on the part of the Government of Ontario to show some leadership and to decide to designate the amalgamated city officially bilingual right from the start.

Mr. Shortliffe's report is carefully drafted and structured. As he says, the francophone and anglophone character of the region

is part of its unique mosaic. The Government of Ontario should implement this important recommendation.

In the *Monro* case, back in 1966, the Supreme Court of Canada clearly confirmed the power of the federal government over the national capital region. This is something which should distinguish, or which already distinguishes Ottawa from the surrounding region and from the other regions of Ontario.

The Ontario superior court also mentioned the four principles that underline our constitution: democracy, federalism, constitutionalism and the protection of minorities, particularly the francophone minority. These principles were established by the Supreme Court of Canada in the cases mentioned above, including the reference on the secession of Quebec and the Beaulac case.

The Government of Ontario seems to want to leave it up to Ottawa to designate itself officially bilingual. This may be due to two reasons: the provincial government's refusal to be perceived as being pro-francophone and, second, its desire not to open the door to official bilingualism in Ontario, as described in section 133 of the Constitution of Canada.

In conclusion, honourable senators, I insist that the City of Ottawa is unique. It is the national capital of an officially bilingual country. If it is to remain the national capital — and I emphasize the word "if" — and continue to enjoy the benefits that go with this status, Ottawa should be officially bilingual.

In addition to being the national capital, the City of Ottawa is located on the Quebec-Ontario border. It has a rich francophone history and culture and it has a significant francophone minority.

At a time of increasing tensions about our confederation and the secession of Quebec, the bilingual character of the national capital takes on a symbolic importance.

In addition to the fact that there is a significant francophone minority in the Ottawa region, the courts increasingly recognize the protection of minorities as an underlying principle of the Constitution and a constitutional value.

I must say that I was pleasantly surprised to read yesterday's editorial in *The Globe and Mail* on this issue. It said: A bilingual Ottawa a better Canada. *The Globe and Mail* was not as magnanimous regarding the Montfort Hospital.

The future belongs to those who fight. Such is the motto of *Le Droit*, our French daily newspaper in Ontario. That is exactly what we will do.

Hon. Serge Joyal: Honourable senators, Ontario's decision to ignore the recommendation of its own special advisor, Mr. Glen Shortliffe, by not giving bilingual status to the new city resulting from the amalgamation of 11 municipalities in the greater Ottawa area, concerns us all as Canadians.

Not only this decision annihilates, at the stroke of a pen, the result of several years of fighting, thereby weakening again the Franco-Ontarian minority community, but it also flies in the face of the basic concept, of the ideal we have of this country where, in the national capital, the two founding linguistic communities can live in harmony, develop and grow richer from being in contact with each other.

[English]

The previous governments of the Honourable John Robarts, Bill Davis, David Peterson and Bob Rae would not have been that insensitive.

[Translation]

Without realizing it, the Harris government is attacking the very basis of the Canadian idea. This is a denial of our aspirations, it shows a troubling ignorance of the efforts made by those who came before us and it marks a return to prejudice and indifference which we no longer expected from our leaders.

Ottawa is like no other city. It is the capital of Canada. It is an essential component of the national capital region. It is where the most important institutions of our democratic life are found: the Parliament of Canada, the Supreme Court of Canada, the representative of the monarch, who is the head of our constitutional order.

Both the government and the Parliament of Canada work in the country's two official languages. The Canadian Constitution sees to it, and the Supreme Court of Canada so eloquently demonstrated it in its decision from August 20, 1998 on the secession of Quebec.

This decision is crucial to understand the principles that guide us and upon which our democracy is based. Need I remind my colleagues that there are four of these principles: federalism, democracy, the constitutionalist approach and the rule of law and last but not least the protection of minority rights. It is to this last principle, the "protection of minority rights", that I want to draw your attention.

Honourable senators, I submit that the decision of the Ontario government to strike down the previous bylaws of the cities of Ottawa and Vanier, that recognized the bilingual status of these communities, and to replace them by a piece of legislation that does not provide any such guarantee is, in my view, unconstitutional and contrary to the fundamental principle that protects the rights of all linguistic minorities, as mentioned in the decision handed down by the Supreme Court of Canada on August 20, 1998.

How can we not react to this tactic to revoke the bilingual status of both the cities of Ottawa and Vanier and merge them in a huge entity, while totally disregarding the impact such an

initiative would have on the rights of an official language minority?

Let us consider the precedent being set here: huge mergers are enough to erase 132 years of tenacious battle. We recently had an example with the Montfort Hospital. Merging it with three other hospitals from the Ottawa-Carleton area was enough to make it disappear.

Recently, on November 29 to be exact, in a unanimous decision, three judges of the Ontario Superior Court quashed this decision, finding it to be unconstitutional and contrary to the protection of the franco-Ontarian minority rights.

Let me remind my colleagues of the fundamental elements of this decision made by the Ontario Court. First of all, the court recognized that the Montfort Hospital played a role in the Ottawa-Carleton area that also extended to the whole province. It also pointed out that the Franco-Ontarian community constantly had to fight against assimilation in order to survive.

The court added and I quote:

[English]

• (1830)

Unlike other minorities, however, the francophone language and culture in Canada — like the English majority language and culture — are entitled to special status under the Canadian Constitution.

That is at page 6 of the judgment.

[Translation]

In order to survive, these linguistic communities should be supported by a whole network of institutions that foster their development and that help check assimilation. I quote:

[English]

The francophone nature of their institution has thus become increasingly important in fulfilling the role of preserving and protecting that culture.

That is at page 7 of the judgment.

[Translation]

In other words, institutions giving services in French are vital for this community. The court went on:

[English]

Thus, these institutions must exist in as wide a range of spheres of social activities as possible in order to permit the minority community to develop and maintain its vitality.

Institutions are also important symbols for the Franco-Ontarian community. They reflect the identity of the group, the French presence in Ontario and in Canada, the French reality in public life, and the strength and vitality of the community.

That is at page 7 of the judgment.

[Translation]

The court did recognize the importance of the French language to keep this community alive.

[English]

The French language is the key cultural component of the Franco-Ontarian community.

That is at page 8 of the judgment.

[Translation]

Honourable senators, do you not agree that these characteristics apply to the new city of Ottawa, which will have more than 125,000 French-speaking citizens, representing more than 15 per cent of the population?

The city of Ottawa is the main component of the area under the National Capital Commission, which is itself a bilingual agency.

How will French-speaking Canadians from other areas who live in Ottawa as representatives of their region react to the indifference of the Ontario government to the very symbol of our national life? In the past, mayors of Ottawa did understand this issue.

Why ignore years of linguistic harmony and force francophones to fight again for their rights? Why create more political tensions when we had linguistic peace and mutual respect?

The decision of the Ontario government is inconsistent with the spirit of our Constitution. It is inconsistent with the respect for equality between both communities that is the very foundation of the Canadian pact.

The Superior Court of Ontario has reminded us that the principle of the protection of minority rights, and I quote:

[English]

...are not simply "descriptive" of rights. They infuse our Constitution and breathe life into it. Albeit they are unwritten, these underlying principles of the constitution may nonetheless give rise to substantive legal rights, which constitute substantive limitation upon government action;

moreover, they are "invested with a powerful normative force and are binding upon courts and governments."

In that regard, the Court was quoting the *Reference re Secession of Quebec* [1998, 2 S.C.R. 217] at pages 248 and 249 of the opinion of the Court.

[Translation]

The Supreme Court said that Canada is a constitutional democracy. In simple terms, this means that the constitutionalism principle requires that any government initiative respects the Constitution.

[English]

That is found at page 8 of the judgment.

[Translation]

The Ontario government legislation which abolishes the bilingual statute of the new municipality of Ottawa...

[English]

...must be measured against the "minority protection" benchmark, one of the fundamental organizing principles of the constitution. If the conduct is found wanting and in violation of that principle, the reviewing court must intervene...

That is at page 20 of the judgment.

[Translation]

Honourable senators, we must draw the conclusions which are obvious.

[English]

Given that the principle of minority protection — particularly francophone minority protection — is an independent principle underlying the constitution, and one which has a powerful normative force, which is binding upon government, the Court must intervene, where necessary, to protect against government action which fails to recognize that principle.

That is at page 23 of the judgment.

[Translation]

Francophones living in Ottawa and Vanier and, to another degree, those living in Cumberland and Gloucester will no longer have the right to be served in French in the new municipality. This will also be true for the other Canadians who are in Ottawa to represent their constituents, their region or, like myself, their senatorial district.

Consequently, we must warn the Ontario government that if it refuses to reconsider the legislation abolishing the bilingual statute for the new municipality of Ottawa, a prosecution will be instituted before the Ontario courts that have jurisdiction over these matters in order to invalidate the provisions of this bill abolishing the recognition of French in the statutes of the new municipality.

• (1840)

Honourable senators, there is something deeply unjust in an amalgamation project that will submerge in a very large city a whole community which has had protected rights up to now.

It would really be too simple to circumvent in that way principles that are the foundation of our constitutional order.

Our national capital should be a symbol of the French-speaking culture. If it cannot thrive here, in what other Canadian city could it do it? This is a ideal which is the very basis of the special identity of our country. This ideal is never realized once and for all, and those who strive for it can never rest.

We cannot tolerate that short-sighted provincial politicians who have no national vision take aim at our ideal, and refrain from using the means our Constitution affords us. We should not let this initiative become the symbol of the failure of our community, which would not be able to carve its own place in our national capital.

Honourable senators, it is my firm intention to ensure that the Ontario legislation, which does not recognize the rights of the francophone minority in Ottawa and of all Canadians who truly believe in the equality of both official languages, is struck down.

Let us prove that, once a government has granted a status to our community, it can no longer act in a discriminatory way to restore inequality.

Twenty-three years ago, I sued the then Minister of Transport of my own government in order to have a regulation prohibiting the use of French in the cockpit struck down; also 23 years ago, I sued Air Canada to force the Crown corporation to take whatever steps were necessary to make French a working language in the air transport industry. These two legal actions were well received by the courts of Canada.

Seventeen years ago, as the Secretary of State for Canada, I contributed to the development of the Court Challenges Program designed to help official language minorities protect their rights. Again today, we will have to turn to this program in our determination to ensure their survival and development.

The Ontario government has decided to appeal the decision concerning the Montfort Hospital. It saw fit to challenge the legitimacy of that decision. Let us stay the fight, all the way to the Supreme Court of Canada if necessary, where our rights are to be ultimately recognized.

Therefore, I invite Senator Marie-P. Poulin, Senator Jean-Robert Gauthier, as well as the people of Ottawa and all Canadians to join me in turning to the courts to protect their rights and that of all those who believe in a country which holds the linguistic equality of French and English to be an important mark of civilization and freedom essential to human dignity.

[English]

Hon. Jeremiah S. Grafstein: Honourable senators, I should like to ask some questions of the Honourable Senator Joyal.

The Hon. the Speaker: Since the speaking time of the Honourable Senator Joyal has expired, is there leave for the honourable senator to continue to answer questions?

Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, it is getting late and there are those who have obligations. We did allow the clock not to be seen. However, let us not get too liberal, with a small "I". I agree that this is an important issue. However, let us be respectful of senators on both sides of this chamber who may have commitments shortly.

Senator Grafstein: Honourable senators, I will keep the comments of the Leader of the Opposition in mind and be as brief as possible.

This is an important issue. We have heard from three francophone senators on the matter. I have a comment and a question for the honourable senator.

Personally, I find it incomprehensible that the bipartisan policy of the Ontario government was not to move forcefully on this issue. Premiers Robarts and Davis of the Conservative Party, Premier Peterson of the Liberal Party and Premier Rae of the NDP would have been upset — and I hope we will hear from them — about this diversion or frolic of the present Government of Ontario. I make that comment as a senator from Metro Toronto.

If the honourable senator proceeds with the court action, as a senator from metropolitan Toronto, Ontario, I would be glad to join with him in it. It is important that non-francophone senators indicate their displeasure with policies in regions they represent.

My question for Senator Joyal is this: In addition to the court action, has he considered two other actions which might move the matter ahead much more quickly? The first would be to extend the geographical reach of the National Capital Commission, which I assume could be done through a private member's bill in this place. Thus, there would be no question that the geographical territory would be totally bilingual. Second, has he considered the power of the federal government to disallow this legislation?

[Translation]

Senator Joyal: Honourable senators, Senator Grafstein's question raises a complex legal issue.

[English]

I will use the English phrase. There is an overlap of jurisdiction between the responsibilities of the National Capital Commission and the City of Ottawa, be it the city we know now or the new City of Ottawa. The National Capital Commission does not have jurisdiction to provide municipal services, such as fire fighting, policing, recreation facilities, and so on. Those responsibilities are peculiar to a structure of government which in our Constitution is called a "municipal government", and those governments are totally under provincial jurisdiction.

According to the National Capital Commission, there are certain responsibilities which come under the urban planning provisions, especially in relation to the federal presence. I refer to administration services and so on which, to a point, overlap those of the municipal government.

Even if we were to extend the boundaries of the National Capital Commission to cover the whole of the territory of the new city, the new City of Ottawa would be bound by the legislation in the same way as the existing city.

With regard to the disallowance power, honourable senators will understand that this is a very complex question. The Supreme Court of Canada has ruled that a power does not suffer extinction as long as it is in the Constitution. However, that would be a matter for the Government of Canada to consider if a recommendation were made to the Governor General of Canada in that context, taking into account that that power has not been used for a very long time. If it were used, it would be under exceptional circumstances. It might be a short way to seeing the solution we desire, but there are other means at our disposal which could be as effective. It would be helpful for all Canadians in all the provinces to have a decision on this matter.

I see Senator Lynch-Staunton sitting on the other side of the chamber. He will know that North Hatley and Ayer's Cliff are in the process of a merger in the same context. However, if they merge, North Hatley will lose its status as a bilingual town recognized under paragraph 13(f) of the *Loi sur la langue française au Québec*. They want to merge services. Some 40 per cent of the population of the new town would be English-speaking, which would cause them to lose their bilingual status.

Thus, the problem is not only a problem for Ottawa, it is nationwide because, in implementing a policy to merge, the minority is reduced to such a low level that there is no justification or the provision of services. This issue is such an important one that it could not be addressed by a disallowance power. It is extremely important in this country that the minority rights of individuals — be it in the English-speaking minority or in the French-speaking minority — are assured. That is to say,

once their rights are recognized, those rights cannot, through the back door, be reduced by administrative objectives that are financially sound but, in terms of minority rights, amount to total destruction of those very rights.

• (1850)

On motion of Senator Fraser, debate adjourned.

THE SENATE

MOTION TO UPHOLD ROYAL ASSENT PROCEEDINGS— MOTION STANDS

On Motion No. 43:

That the Senate of Canada affirm its Royal Assent procedure in the Senate described by parliamentary authorities Norman Wilding and Philip Laundy "The Canadian ceremony seems to be that which most closely resembles the original.";

That the Senate uphold the sovereign right of Her Majesty, as enacted in the *Constitution Act 1867*, in the Royal Prerogative of the Royal Assent in respect of parliamentary proceedings and bills considered, voted or passed in both Houses of Parliament;

That the Senate as the House of Her Majesty's Royal Assent affirm its ancient constitutional right as the House of the Parliament, the House for the proceedings of the three estates of Parliament acting together as the One Parliament of Canada;

That the Senate affirm the Law of Parliament, the "lex parliamenti", that ancient law which holds that the Royal Consent is required for Parliament's consideration of any bill or any parliamentary proceeding altering Her Majesty's Royal Prerogative;

That the Senate affirm that the parliamentary procedure for a private member of Parliament to obtain the Royal Consent is a motion for an Address to Her Majesty requesting the same, as distinct from the other forms for obtaining Royal Consent which may be available to the Prime Minister or ministers acting under political ministerial responsibility; and

That the Senate affirm the necessity of the Royal Consent as given by Her Majesty to the consideration of bills affecting the Royal Prerogative, as that Royal Consent which was given by Queen Elizabeth II to the 1967 Royal Assent Bill, which Consent was delivered in the United Kingdom House of Lords by the Lord Chancellor Lord Gardiner at the bill's second reading on March 2, 1967, stating:

"My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Royal Assent Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill."

and weeks later, on April 17, 1967, in the United Kingdom House of Commons, delivered by the Attorney General Sir Elwyn Jones, stating:

"I have it in Command from the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

I beg to move, that the Bill be now read a Second time."

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order. Even though the sponsor of the motion, Senator Cools, is not here, if I do not raise this matter now I may be faulted for not having raised it at the earliest possible occasion. I suggest that the rule of anticipation should be invoked here. In effect, if this motion is allowed to proceed on the Order Paper, it will result in the same subject matter being on the Order Paper twice. One conflicts with the other. The rule of anticipation, as stated in Beauchesne's 6th edition, paragraph 512(1), states:

The rule of anticipation, a rule which forbids discussion of a matter standing on the *Order Paper* from being forestalled, is dependent upon the same principle as that

which forbids the same question from being raised twice within the same session.

I would also draw your attention to paragraph 512(2).

My point of order is that the bill, Bill S-7, is a more effective form of proceeding than the motion to be moved by Senator Cools. Consequently, the debate on Bill S-7 should have precedence and the senator's motion should not be on the Order Paper.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, Senator Cools is not in the chamber. Therefore, I would beg the indulgence of honourable senators to at least give her an opportunity to be heard on the point of order being raised by Senator Lynch-Staunton. Accordingly, I would suggest that the discussion of the point of order resume tomorrow when she is in the chamber.

The Hon. the Speaker: Honourable senators, there is no motion before the chamber at this point. We have a notice of motion which was given by the Honourable Senator Cools. Therefore, there is nothing on which I can rule.

However, I appreciate the point made by Honourable Senator Lynch-Staunton. I have been considering this situation, but I can do nothing until such time as the motion is actually moved. At that point, I will be pleased to entertain a question concerning the rules.

Motion stands.

The Senate adjourned until Wednesday, December 15, 1999, at 1:30 p.m.

CONTENTS

Tuesday, December 14, 1999

PAGE

PAGE

The Late Honourable R. James Balfour, Q.C.

Tributes, Senator Lynch-Staunton	450
Senator Hays	450
Senator Murray	450
Senator Andreychuk	451
Senator Tkachuk	451

SENATORS' STATEMENTS

Manitoba

Cross Lake First Nation—High Rate of Suicide. Senator Carstairs	452
--	-----

New Brunswick

Bill to Create Holocaust Memorial Day, Senator Cohen	452
--	-----

Special Olympics

Ottawa—Winter Games 2000, Senator Johnson	452
---	-----

Distinguished Visitor in the Gallery

The Hon. the Speaker	453
----------------------------	-----

Official Languages

Second Report of Standing Joint Committee Presented. Senator Losier-Cool	453
---	-----

Civil International Space Station Agreement Implementation Bill (Bill C-4)

Revised Report of Committee, Senator Stollery	454
---	-----

Adjournment

Senator Hays	454
--------------------	-----

Nisga'a Final Agreement Bill (Bill C-9)

First Reading,	454
Senator Austin	454
Senator Hays	454
Senator Prud'homme	455

Appropriation Bill No. 2, 1999-2000 (Bill C-21)

First Reading,	455
----------------------	-----

Canadian NATO Parliamentary Association

Delegation to 1999 Annual Session Held in Amsterdam, The Netherlands—Report Tabled. Senator Rompkey	455
---	-----

Recommendations of Royal Commission on Aboriginal Peoples Respecting Aboriginal Governance

Notice of Motion to Authorize Aboriginal Peoples Committee to Extend Date of Final Report on Study, Senator Watt	455
---	-----

QUESTION PERIOD

Intergovernmental Affairs

Referendum Clarity Bill—Application of Terms, Senator Nolin ..	455
Senator Boudreau	456
Senator Rivest	456

Supreme Court

Terminology Regarding Decision on Referendum Reference. Senator Kinsella	458
Senator Boudreau	458

Transport

Nova Scotia—Federal Government Commitment to Twinning Highway 101, Senator Forrestall	458
Senator Boudreau	458

Finance

Allocation of Canada Pension Plan Credits in Marriage Breakups. Senator Oliver	458
Senator Boudreau	459

Health

Possible Regulations Regarding Addition of Caffeine to Beverages. Senator Spivak	459
Senator Boudreau	459
Request for Study of Effects of Caffeine, Senator Spivak	459
Senator Boudreau	459
Delay in Release of Scientific Report, Senator Spivak	459
Senator Boudreau	460

Fisheries and Oceans

Coast Guard—Provision of Cruises to Premiers. Senator Kinsella	460
Senator Boudreau	460

Delayed Answers to Oral Questions

Senator Hays	460
--------------------	-----

The Economy

Purchase of Major Companies by United States Firms— Government Policy. Question by Senator Oliver. Senator Hays (Delayed Answer)	460
---	-----

Elections Canada

Manitoba—Loss of Confidential Data—Transfer of Personal Data— Principle of Consent—Procedures for Security of Personal Data. Questions by Senators Spivak and Andreychuk. Senator Hays (Delayed Answer)	461
--	-----

International Trade

Collapse of World Trade Organization Discussions—Agricultural Subsidies of Member States—Assistance to Canadian Farmers. Question by Senator Andreychuk. Senator Hays (Delayed Answer)	461
---	-----

	PAGE
Heritage	
Status of Holocaust Memorial Museum. Question by Senator Kenny..	
Senator Hays (Delayed Answer)	461

ORDERS OF THE DAY

Civil International Space Station Agreement Implementation Bill (Bill C-4)	
Third Reading—Debate Suspended. Senator Stollery	462
Senator Grafstein	462
Senator Joyal	463
Senator Pépin	464
Senator Andreychuk	464
Senator Hays	464
Senator Gauthier	465

Business of the Senate	
Senator Hays	465
Senator Kinsella	465

La Francophonie Summit	
Inquiry—Debate Adjourned. Senator Gauthier	465

Civil International Space Station Agreement Implementation Bill (Bill C-4)	
Third Reading.	467
Senator Stollery	467

Income Tax Conventions Implementation Bill, 1999 (Bill S-3)	
Third Reading—Debate Adjourned. Senator Hervieux-Payette ..	468
Senator Kinsella	471
Senator Hays	471
Senator Lynch-Staunton	471

Speech from the Throne	
Motion for Address in Reply Adopted. Senator LeBreton	471
Senator Kroft	474

Speech from the Throne	
Address in Reply—Motion for Termination of Debate on Eighth Sitting Day—Order Withdrawn. Senator Hays	475
Senator Kinsella	475

Public Service Whistle-Blowing Bill (Bill S-13)	
Second Reading—Debate Adjourned. Senator Kinsella	475

Royal Assent Bill (Bill S-7)	
Second Reading—Motion in Amendment—Speaker's Ruling. The Hon. the Speaker	477

Parliament of Canada Act (Bill S-5)	
Bill to Amend—Second Reading—Debate Continued.	
Senator Kinsella	479
Senator Corbin	481

Immigration Act (Bill S-8)	
Bill to Amend—Second Reading—Debate Adjourned.	
Senator St. Germain	481
Senator Hays	482
Senator Corbin	482

Air Canada	
Order in Council Issued Pursuant to the Canada Transportation Act to Allow Discussions on Private Sector Proposal to Purchase Airline—Report of Transport and Communications Committee on Study—Debate Adjourned. Senator Bacon	483
Senator Forrestall	484

Internal Economy, Budgets and Administration	
Second Report of Committee Adopted. Senator Nolin	485

The Estimates, 1999-2000	
National Finance Committee Authorized to Study Estimates.	
Senator Hays	486
Senator Lynch-Staunton	486
Senator Robichaud	486
Senator Kinsella	486
Motion in Amendment Withdrawn. Senator Robichaud	486
Senator Bolduc	486
Senator Hays	486

Canada-Europe Parliamentary Association	
Organization on Security and Cooperation in Europe— Eighth Annual Meeting of Parliamentary Assembly Held in St. Petersburg, Russia—Inquiry. Senator Grafstein	487
Senator Hays	487

Ontario	
Regional Restructuring Legislation—Refusal to Declare Ottawa Officially Bilingual—Inquiry—Debate Adjourned.	
Senator Poulin	489
Senator Gauthier	489
Senator Joyal	491
Senator Grafstein	494
Senator Lynch-Staunton	494

The Senate	
Motion to Uphold Royal Assent Proceedings—Motion Stands.	
Senator Lynch-Staunton	496
Senator Hays	496



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT •

VOLUME 138

• NUMBER 22

OFFICIAL REPORT
(HANSARD)

Wednesday, December 15, 1999

—
THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, December 15, 1999

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

HOCKEY LEGENDS

TEAM CANADA 1999

Hon. Francis William Mahovlich: Honourable senators, today I should like to describe my version of Team Canada 1999. It has been 27 years since the "Series of the Century" in 1972, when the world stopped for a moment to witness Canada's great win. Now, as then, there are political overtones. Our trip was organized mainly by Mr. Alexander Tikanov, who will be running for governor of the area. Mr. Tikanov is not only a political whiz but also has more Olympic and sports medals than any of our senators.

The purpose for my trip was to witness firsthand the changes in Moscow and Russia since 1972 and to play the rubber match we won in 1972 and lost in 1974. The team consisted of Hall of Famers Guy Lafleur and his son, Gilbert Perreault and his son, Marcel Dionne, Steve Shutt and Brad Park. Goaltender Richard Sévigny and Gaston Gingras helped fill up the roster, along with others, including my son, Ted Mahovlich.

To summarize the match, Guy Lafleur was outstanding in game number one, scoring a hat trick. The father-son combination of Frank and Ted Mahovlich scored with minutes to go in the second game, and Frank was voted the star of the game!

Hon. Senators: Hear, hear!

Senator Mahovlich: The trophy will be displayed in my office.

Game number three was a shootout, with the Russians winning 5-3. If the coaches had made a mistake so far, it was in choosing the players for the shootout. I did not get a chance. The coaches were Hall of Famers Ivan Cournoyer and Bobby Hull.

For game number four, we did not want to leave anything to chance, so everyone was ready to play the game of their lives. The outcome, 5-2 in our favour, was thanks to the sons, Marc-André Perreault, Martin Lafleur and Edward Mahovlich, who scored two goals.

The Russians also had great players from the 1972 series: Boris Mikhalov, Alexander Yakushev, Alexander Maltsev,

Vladimir Luchenko, Valery Vasiliev, Uri Liapkin and a fellow by the name of Goosiv. The sons were Olag Mikhalov and Alexander Kharlamov.

Did this team make an impression? I would say no doubt — especially if impression means the rendition of volume and perspective through toned colour to achieve light effects that eliminate outline. Some senators would say that I am talking more about a Monet painting or a Cézanne. However, that is not true. This team left in the minds of the Russians a masterpiece in behaviour, team spirit, determination and sportsmanship. I was proud to be part of it all.

In turn, the Russians could not do enough for us. If Marie wanted to visit the Bolshoi, the Pushkin or the subway station, we had Olag and Stash, the bodyguards, at our disposal. Everything was the opposite of 1972: accommodation, food and entertainment.

The trip included a game in St. Petersburg and a visit to the Hermitage, the winter palace of the Czars. We travelled overnight by train and visited the new hockey arena that will stage the World Junior Hockey Championships in April 2000. Canada will be well represented. The executive in charge gave us a tour and explained that the rink was 80 per cent finished and would be ready for 2000 — and it has a seating capacity of 12,000 — at a cost of \$75 million. When I asked where the money came from, he mentioned the bank and some large investors.

Among the highlights of the trip were the changes that have taken place. We visited the Kremlin, where Yeltsin had just finished a meeting with Leonid Kuchma, President of the Ukraine.

The Hon. the Speaker: I am sorry, Senator Mahovlich, but your speaking time has expired.

Senator Lynch-Staunton: Overtime, please!

Some Hon. Senators: Shootout!

The Hon. the Speaker: Do you wish leave to continue?

Senator Mahovlich: Yes, Your Honour.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

The Hon. the Speaker: Please continue.

• (1340)

Senator Mahovlich: The Kremlin has been refurbished to the tune of U.S. \$350 million and it is a building of which Russia can be proud. I have been to Washington, France, Beijing and Australia. Nothing compares to the job that was done on the famous roofs of the Kremlin where, at one time, the czars and the czarinas ruled. If any senator has the opportunity to visit Russia, seeing the Kremlin is a must.

Mr. Pavel Boredin, the third in command, was kind enough to explain in detail what all the rooms represented and their functions both for the Communist Party and for the czars. The place was so vast, it felt like our Parliament buildings could be placed in one room, and there were three rooms of that size.

It is quite intimidating when President Yeltsin has a meeting in one of these rooms and there is a desk, two chairs, and all the other furniture is moved out. The pillars are made of malachite and lapis lazuli, with paintings of Russian historic heroes adorning the walls.

The one thing about Russia that remains constant is the habit of making toasts and speeches. We had to fill our shot glasses with water after a couple of vodkas in order to keep up with them.

The highlight of the trip was a visit to the cemeteries with the wives and sons of the hockey coaches and players. The Russians make regular visits to honour their fellow players, such as Alexander Kharlamov, who passed away in 1981. The headstones are works of art. For example, there was a bust of Tarasov on top of a piece of granite, which was split in half with iron hockey sticks in the middle of the rock. I was so impressed and I took so many photos that I ran out of film.

Many of the Russians spoke to us about their coaches and players. As the captain of the team, I spoke about Tarasov, our meeting in the early 1960s, and of my experiences witnessing one of Kharlamov's famous goals.

The trip ended with a party at the Savoy Hotel and Russian-style entertainment and dancing. Both teams were present, unlike 1972 when the Russians did not show after losing. We all had books and programs to sign. In attendance was astronaut Julie Payette, who speaks five languages, including Russian. Also present were Canadian Ambassador Rod Irwin and Mrs. Irwin.

The cigar smoke finally got to us, so we returned when Julie left. We had packing to do for the flight home the next morning.

The Hon. the Speaker: Honourable Senator Mahovlich, you were granted overtime. I expected a goal.

Some Hon. Senators: Oh, oh!

ALBERTA

APPOINTMENT OF LIEUTENANT-GOVERNOR LOIS HOLE

Hon. Joyce Fairbairn: Honourable senators, I am sure other honourable senators from Alberta join me in drawing the attention of the Senate to the change in the position of the lieutenant-governor in our home province.

Bud Olson, our old friend and, to those of us on this side, much-beloved colleague, is stepping aside, and the post will be filled early in the new year by another good friend, a great lady by the name of Lois Hole. Lois is a businesswoman, an author, a broadcaster and an education activist who has served for some 30 years in various capacities on the boards of school districts in and around the town of St. Albert. She has generously offered her volunteer support in efforts within her community and the city of Edmonton, where she is much admired for her skill and spirited good humour. She and her husband Ted have become household names not just in Alberta but throughout Canada and beyond for their extraordinary horticultural achievements through the greenhouse operation that bears their name. As the Holes built their farm and their business, they also raised Bill and Jim, who are their partners.

Lois Hole's advice is sought throughout North America and, in the past five years, she has spoken to some 600 groups and businesses. She was awarded the Order of Canada and became Chancellor of the University of Alberta a year and a half ago. Already, she has exhibited a zestful anticipation of her new responsibilities as she intends to place a public focus on the importance of education and learning for citizens of all ages. I wish her great success and will support her in any way I can.

Honourable senators, Lois follows a wonderful gentleman, Bud Olson, a Medicine Hat farmer who for more than four decades has led a life of public service. He was a member of the House of Commons for 15 years and a senator from 1977 until he became Lieutenant-Governor in 1996. Throughout his career, Bud was recognized as one of the most skilled debaters and procedural experts of his time. He certainly was a great teacher to me in all the years of our friendship on Parliament Hill.

The constant element of Bud Olson's service has been as a passionate and outspoken voice for the concerns of his province and, particularly, of the farm community. Overarching all of that has been a fierce patriotism for this country and its unity, which he carried with him into his most recent position.

I know all honourable senators in this house join me in welcoming Lois Hole and in congratulating Bud Olson. We thank Bud for giving so much of his life to the benefit of others in Canada. I hope in the months ahead that he will regain his boisterous good health and that he and Lucille will enjoy many happy and healthy years together on the land they love near the community of Medicine Hat in southeastern Alberta. God bless you, Bud.

Hon. Senators: Hear, hear!

Hon. Nicholas W. Taylor: Honourable senators, it would be almost impossible to gild the lily after Senator Fairbairn's comments, but I should say a few words. I wish Bud Olson good health in his retirement. My connection with Bud goes back many years. Bud was always dedicated to politics. He was a logical and tough debater. I recall him campaigning on a motorcycle for the Social Credit Party in southern Alberta. Not too many years later, he was a Liberal cabinet minister and riding around in a limousine. That shows how some of the southern Alberta people can move. I see Senator Ghitter nodding his head.

I have known Lois Hole for more years than she would care to remember. We were trustees in the Alberta School Trustees Association a little over 25 years ago. Then, like most Liberals, I had to move out of Calgary to get elected. One of the new definitions of "homelessness" is being a Liberal in Calgary. I went up to Northern Alberta, and Lois and Ted were big supporters in my new constituency. After so many years together in education, I thought I might have an "in". A friend of mine was recruiting football players from the high school graduates in Alberta to play in Oklahoma. I took him to visit the Hole family, with their two strapping sons. The whole family is interested in athletics, but Lois told me in no uncertain terms that, although the boys could make up their own minds, as parents they wanted to see their sons play football in Canada.

I mention that merely to show that Lois is the matriarch of the clan. Ted and the boys had a great deal to do with building the family business. Lois is noted primarily for her interest in education as well as for being an author. Many of us will have a chance to meet her in the years ahead because she is young and energetic and will be moving around this country quite a bit. She will make a great lieutenant-governor.

• (1350)

SASKATCHEWAN

APPOINTMENT OF LIEUTENANT-GOVERNOR LYNDA HAVERSTOCK

Hon. Sharon Carstairs: Honourable senators, I do not know the new Lieutenant-Governor of the Province of Alberta, but I wish her well. I do know the new appointee to the Province of Saskatchewan, Lynda Haverstock.

Lynda Haverstock will set new ground in the so-called curriculum vitae of a lieutenant-governor. Ms Haverstock was a teenage, unwed mother, a high-school dropout, who now has her Ph.D. in psychology. She has spent many years working with farm families in crisis, providing counselling in all of its dimensions. I think that is an important aspect of what she will bring to her new position as the Lieutenant-Governor of the Province of Saskatchewan.

Lynda was an active politician for a number of years. She was leader of the Liberal Party in Saskatchewan at about the same time that I was the leader of the Liberal Party in Manitoba. As Liberal fortunes were not particularly on the upswing in either province at the time, she and I did a certain amount of commiserating on a number of occasions.

I think that the Prime Minister has chosen well. By the time both of these women are sworn in, 50 per cent of the lieutenant-governors of the country will be females.

Hon. Senators: Hear, hear!

Senator Carstairs: He has also made an excellent choice in that Ms Haverstock has struggled, as have many in Saskatchewan, and she has a firsthand knowledge of the struggle that people in Saskatchewan are presently facing.

Hon. David Tkachuk: Honourable senators, this will be one of the few times that I say something good about a Liberal. As you know, the Prime Minister appointed Ms Lynda Haverstock to be the new Lieutenant-Governor of Saskatchewan. She replaced another great Liberal, Jack Wiebe. I just sent Jack a Christmas card, saying "Ask for five more years," but he received it while Lynda was being appointed, which is too bad.

Lynda struggled as leader of the Liberal Party in Saskatchewan, but I have a lot of time for Lynda Haverstock. She is a friend of mine. Her husband and I play golf as many times as we can. She is a woman of principle. She will handle the office with great dignity. She is an example to us that patronage appointments do work. I teased Lynda about her appointment at the airport last week. I had travelled with her husband from Toronto to Saskatoon, and he had told me that her appointment had been announced. I had thought she was going to be an open-line talk show host. As you may know, she has had some problems with the present Leader of the Liberal Party, Jim Melenchuk, problems which were quite serious. I told her husband that she could get her revenge because he is now a member of the NDP caucus and when one of his bills comes up for her signature, she could just throw it in the garbage. Lynda will appreciate that.

After Senator Carstairs's nice words about Ms Haverstock, I wanted to add to what she has said and congratulate Ms Haverstock. I know she will represent the province well. She is one of the few appointments that the Prime Minister has made that I fully support.

DISTINGUISHED VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to welcome two of our former colleagues to the the gallery this afternoon, the Honourable Lorne Bonnell and the Honourable Eugene Whelan.

Hon. Senators: Hear, hear!

[Translation]

[English]

ROUTINE PROCEEDINGS

AIR CANADA

ORDER IN COUNCIL ISSUED PURSUANT TO THE CANADA
TRANSPORTATION ACT TO ALLOW CERTAIN MAJOR AIR CARRIERS
TO NEGOTIATE—THIRD REPORT OF TRANSPORT AND
COMMUNICATIONS COMMITTEE PRESENTED

Hon. Lise Bacon, Chair of the Standing Senate Committee on
Transport and Communications presented the following report:

Wednesday, December 15, 1999

The Standing Senate Committee on Transport and
Communications has the honour to present its

THIRD REPORT

Your Committee, which was authorised on October 14, 1999, to examine and report pursuant to subsection 47(5) of the Canada Transportation Act, the order laid before this Chamber on September 14, 1999, authorising certain major air carriers and persons to negotiate and enter into any conditional agreement, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical, and other personnel as may be necessary.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets and Administration on Thursday, December 9, 1999. In its Second Report, the Committee recommended that an amount of \$19,900 be released for this study. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

LISE BACON
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bacon, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

SECOND REPORT OF COMMITTEE PRESENTED

Hon. Mira Spivak, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, December 15, 1999

The Standing Senate Committee on Energy, the Environment, and Natural Resources has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Wednesday, December 1, 1999, to examine such issues as may arise from time to time relating to energy, the environment, and natural resources, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical, and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of such studies.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets, and Administration on Thursday, December 9, 1999. In its Second Report, the Committee noted that it is undertaking a review of the budgetary situation pertaining to Senate Committees, and recommended that no more than 6/12 of the funds be released until February 10, 2000. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

MIRA SPIVAK
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Spivak, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

REPORT OF ABORIGINAL PEOPLES COMMITTEE ON STUDY PRESENTED

Hon. Charlie Watt, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Wednesday, December 15, 1999

The Standing Senate Committee on Aboriginal peoples has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on Wednesday November 24, 1999 to examine and report on the recommendations of the Royal Commission Report on Aboriginal Peoples respecting Aboriginal governance, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, for the purpose of its examination.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets and Administration on Thursday, December 9, 1999. In its Second Report, the Committee recommended that an amount of \$14,750 be released for this study. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

CHARLIE WATT
Chair

The Hon. the Speaker: When shall this report be taken into consideration, honourable senators?

On motion of Senator Watt, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(l)(i), I move:

That at 3:30 p.m. today, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. today, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

[English]

• (1400)

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

REPORT OF CANADIAN DELEGATION TO TENTH ANNUAL
BILATERAL MEETING WITH JAPAN-CANADA
PARLIAMENTARIANS FRIENDSHIP LEAGUE TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table the report of the Canadian delegation of the tenth annual bilateral meeting between the Canada-Japan Inter-Parliamentary Group and the Japan-Canada Parliamentarians Friendship League held in Tokyo, Hiroshima, and on Shikoku Island, Japan, from November 6 to 13, 1999.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN DELEGATION TO THE ORGANIZATION FOR
SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY
ASSEMBLY FROM NOVEMBER 17-19, 1999 TABLED

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association, OSCE, to the Organization for Security and Co-operation in Europe Parliamentary Assembly, OSCE PA, Expanded Bureau Meeting, and OSCE Summit held in Istanbul, Turkey, November 17 to 19, 1999.

CANADA-CHINA LEGISLATIVE ASSEMBLY

REPORT OF CANADIAN DELEGATION TO SECOND ANNUAL
MEETING FROM OCTOBER 25-31 TABLED

Hon. Jack Austin: Honourable senators, I have the honour to table, in both official languages, the third report of the Canada-China Legislative Association concerning the second bilateral meeting held in Ottawa, Toronto, Winnipeg and Victoria, Canada, from October 25 to 31, 1999.

[Translation]

THE SENATE

NOTICE OF MOTION IN SUPPORT OF DECLARING
OTTAWA OFFICIALLY BILINGUAL

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that tomorrow, Thursday, December 16, 1999, I will move that Ottawa, Canada's capital city, should be officially bilingual.

[English]

Hon. Lowell Murray: Excuse me, honourable senators. With great respect to my honourable friend Senator Gauthier, he gave notice of a motion he intends to move tomorrow. He told us about the subject matter. With respect, I do not think that is sufficient. We need the text of the motion tabled.

[Translation]

Senator Gauthier: Honourable senators, I am prepared to table the motion in question.

[English]

The Hon. the Speaker: Honourable senators, I believe the only problem is with communications. As you know, the honourable senator does not hear well and there may be a problem.

Hon. John Lynch-Staunton (Leader of the Opposition): Why do we not agree to revert to Notices of Motions?

Hon. Dan Hays (Leader of the Government): Honourable senators, I agree to revert to Notices of Motions later in the day when Senator Gauthier has the notice of motion in proper form.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. Anne C. Cools: Honourable senators, I think, as Senator Hays was asking leave to revert later so Senator Gauthier could make his notice of motion, Senator Gauthier was right on his feet ready to make the notice of motion.

Senator Hays: All right.

Senator Gauthier: Honourable senators, the confusion may be due to the fact that, because of my deafness, I must read on this portable computer in front of me what honourable senators have just said. However, I do have a motion, and I will give it to the page to take to the Table.

The Hon. the Speaker: Is it agreed that we need not revert later?

Hon. Senators: Agreed.

QUESTION PERIOD

FINANCE

TERM LIMITS OF MEMBERS OF CANADA PENSION PLAN INVESTMENT BOARD

Hon. David Tkachuk: Honourable senators, my question is to the Leader of the Government and has to do with the Canada

Pension Plan and the recommendations of the Standing Senate Committee on Banking, Trade and Commerce.

The Banking Committee undertook an extensive review of the Canada Pension Plan Investment Board in the early part of 1988. I was happy to see that the federal and provincial governments agreed to at least one of our recommendations, that of a limit on the number of terms to which a director may be appointed.

In his September 1998 response to our committee report, the minister said that term limits would require legislative changes. If honourable senators remember the debate at the time, there was an unbelievable hurry to get the Canada Pension Plan Investment Board bill through Parliament. The minister said that these changes could not be made because they required legislative action.

Now that the Minister of Finance has responded to that part of the bill and said that there will be a term limit to which directors may be appointed, we do not see any reference to legislation in last week's announcement. The officials who were contacted by our side were not aware of any plans to bring in legislation to deal with the measures announced last week.

Is it the intention of the government to legislate term limits for the CPP board? If not, was the Finance Minister in error in September of 1998 when he said he needed legislation to impose term limits?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am unaware of any legislation being brought forward at this point by the Minister of Finance. He might choose to do so at a later time, but I am not aware of any legislation at the moment.

The rationale in 1998 would be only a matter of speculation on my part. However, I can relay the question to the minister and provide a response in due course.

Senator Tkachuk: Would the leader undertake to supply in written form an answer as to why there is no legislation and why in September of 1998 the Minister of Finance said that legislation would be required? That point is important because we believed the minister, which caused many committee members to undertake the idea of a letter attached to the bill rather than to pass an amendment in the committee.

Senator Boudreau: Honourable senators, I will attempt to confirm for the honourable senator whether there is any present intention to introduce legislation. If the answer is no, then I will inquire as to the circumstances surrounding the opinion that existed in 1998. When I have that information, I will communicate it to the honourable senator and request the response in writing.

TRANSPORT

RESTRUCTURING OF AIRLINE INDUSTRY— EFFECT OF AIR CANADA MONOPOLY

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and it deals with transportation.

Honourable senators on the Senate Transportation Committee did some excellent work in analyzing the decision of the Minister of Transport to suspend section 47 of the Competition Act, which opened the door for the Onex Corporation to attempt a major airline restructuring move. In fact, our committee found that there was no reason for Minister Collenette to suspend the rules. I was wondering, first, if the minister has such an explanation.

• (1410)

Second, the committee also raised serious questions about competition, protection of consumers, questions about a low cost airline out of Hamilton, Ontario and what should really happen to regional airlines like Air Nova. These are all important issues. Last week, I asked the minister questions about the Air Canada fare increase and now we are told Air Canada is fiddling with consumers' air travel points.

What assurances can the leader give us that Canadians will not be trampled into the ground by the forces of Air Canada's monopoly power? Who is standing up for the rights of consumers in this restructuring?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, with respect to the protection of the Canadian consumer in any dominant carrier situation, the principles which the minister has discussed, and which I have repeated here on a number of occasions, will be brought to bear.

The minister has recently given some indication of bringing consideration to regulatory measures, but we will have to await the precise details. However, I accept his assurance, and I relay it to the honourable senator, that the interests of the consumer will be protected. In our current circumstances a dominant carrier must play by clear rules.

Senator Oliver: If Parliament is to rise until some time in February, who will be looking after the store and tending the shop between now and then in the event that these fare increases and point changes continue to take place? Who will protect the consumers with respect to those matters?

Senator Boudreau: The regulatory agencies currently in place will continue to have jurisdiction. However, the Transport Minister's clear commitment has been relayed in the strongest terms to Air Canada. I am confident that he will ensure that the consumer remains protected.

Hon. Consiglio Di Nino: I wonder if the minister can tell us if any further development has taken place with regard to the comments made by the minister, that foreign carriers may be

allowed to operate within the Canadian field, particularly in the area of cabotage?

Senator Boudreau: Honourable senators, I cannot add anything to that topic at present. I expect the Minister of Transport to come forward shortly with a comprehensive package of measures. I am confident that they will follow the principles which he has brought forward on behalf of the government. Those principles ensure the protection of the consumer.

Senator Di Nino: Would the minister undertake to obtain an answer for us on the subject of cabotage issue by the time the Senate resumes next year?

Senator Boudreau: Honourable senators, I will relay the senator's concerns and his request for information. Whether or not the minister will want to deal specifically and publicly with part of a package, or whether or not he wishes to bring forward measures as part of a comprehensive plan, will be up to him.

NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTER FLEET

Hon. J. Michael Forrestall: Honourable senators, given the incidents reported in the press in recent months and culminating in the Canadian Press story this morning, citing 10, 12 or perhaps more incidents of doors, flat parts, rotor patches and other items falling off the Sea King helicopters, perhaps the government does not think about the personnel who must fly these craft. I wonder what the people of Halifax West — where the Leader of the Government in the Senate may wish to run federally — think about the Sea Kings flying over their heads.

Despite the Minister of National Defence's briefing notes which say it will take eight years to implement the maritime helicopter replacement program, the minister himself says that he can implement a replacement program in five years. I accept that time period; however, there are some conditions that go with such an estimate and I am interested in the minister's response.

I have done a significant amount of research on this question, and I have talked to many people who know precisely what is going on. If the government initiates the program before the end of this month, I am told that the date 2005 is possible. Will the government initiate the program? Does it have plans to do so before the end of December of this year?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I happened to notice that article in the paper earlier and suspected that it could come up. I read the article carefully and have brought a copy of it with me. The senator is quite correct that there are a series of past incidents that we will no doubt hear of again. However, there were a series of incidents with respect to the equipment, which reinforces the conclusion that the equipment is old and nearing the end of its useful life.

I noticed that the article quoted a well-known gentleman in military circles in Halifax, Colin Curleigh, a retired brigadier-general. Mr. Curleigh confirmed that, in his view, it would be possible to have a replacement for the Sea Kings by the year 2005. Mr. Curleigh did not add the condition that the appropriation would have to proceed before Christmas, at least not in the article. However, he did say the initiation could be completed by 2005.

I was happy to hear a military expert such as Brigadier-General Curleigh confirm information I had received from other sources, that reliability of operation was his concern, as opposed to safety of the individuals.

To be fair to the honourable senator, he also added that in order for the initiation to be completed by 2005, it would require a significant amount of political will.

I take from that that he was probably aware of the fact that the Minister of National Defence has made this subject his top priority. I am hopeful that that is the kind of commitment that we need in order to move this program forward.

Senator Forrestall: Honourable senators, there is another condition that goes with that implementation plan. While I have the greatest respect for Brigadier-General Curleigh, whom I have known, as the minister will suspect, for 25 or 30 years. I have been around here a long time. I knew Brigadier-General Curleigh when he was a junior officer. The subject of political will has been raised. If we want to initiate this process, we must streamline the process in order to have a choice. We must make that choice no later than the year 2000, one year from now. Such an implementation period means that a number of the mission systems, most of the work on the choppers and on the systems must be done abroad.

• (1420)

Are we prepared to make the regional industrial benefit sacrifice that might be required in order to achieve that goal? It is vitally important. When we talk about safety, we are talking about reliability.

A window popped off the cargo door of a Sea King on July 7. A Sea King was forced to land in an unidentified field on July 26 when a repair patch flew off a spinning rotor blade in flight. An armament fixture dropped off a Sea King flying at Shearwater. An engine panel fell from a Sea King on August 29 and was discovered only on inspection after landing. Another Sea King lost a different panel while on a flight between Thunder Bay and Kenora. A rescue beacon inadvertently left a chopper on September 24 while it was flying over central Maine. There will be a war with the Americans if we are not careful. A bolt dropped off a Sea King on October 12, forcing it to land immediately. These cases go on and on. It is no wonder the helicopters train over the harbour.

Senator Boudreau: Honourable senators, the issue the honourable senator raises with respect to procurement serves to illustrate how complicated the process normally is. Potentially, it

can always be a series of trade-offs. Do you trade speed for the ability to procure within Canada? Do you trade speed for the ability to go through a procurement process which will draw more bids, thereby bringing the equipment in at a lower price, or do we pay the extra price because we want the equipment sooner?

These are all issues in any military procurement that the Minister of National Defence must consider. I do not feel competent to weigh and judge the various factors based on the information I have before me, but I am confident that the minister does that on a routine basis with any procurement. He would certainly do it in a procurement as significant as the replacement of the Sea Kings.

Senator Forrestall: Honourable senators, nothing will happen before the end of this year, which means that we will not have in place in five years time the equipment that is so vitally necessary.

Senator Boudreau: Honourable senators, I would urge the senator not to come to that conclusion. I remain optimistic. I have had discussions with the Minister of National Defence. He has indicated his priorities which I hope will be translated into action.

HEALTH

INCREASED SPENDING FOR BREAST CANCER RESEARCH

Hon. Marjory LeBreton: Honourable senators, speaking of political will, last week it was reported in *The Ottawa Citizen* that a proposal put to the government to increase spending for breast cancer research and treatment to \$235 million was rejected in the full knowledge that this is the most common form of cancer to strike women. As well, the 1997 Red Book identified breast cancer as one of a handful of critical health issues.

Can the Leader of the Government in the Senate tell us when the government will take this serious illness to heart and do something about it?

The government spent \$1 billion to settle the Pearson airport contracts and \$764 million to settle contracts as a result of the cancellation six years ago of the EH-101 helicopters. In light of that, how can the government justify denying \$235 million over five years to women with breast cancer?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the government takes very seriously efforts to combat this disease and relieve the suffering of those who have it.

I am not specifically familiar with the request to which the honourable senator refers. As a matter of fact, I am a little bit confused about exactly what was requested; whether it was the direct delivery of medical services funded by the federal government or whether it included participation by provincial departments of health. Unfortunately, I do not have any of that information before me so I am unable to give the honourable senator a full answer.

Senator LeBreton: Honourable senators, it was a member of the government leader's own Liberal caucus, Dr. Carolyn Bennett, who made this proposal to the government, and it was rejected. I suggest that the government leader speak to Dr. Bennett. This was covered widely in the media. I saw it in *The Ottawa Citizen*. A friend of mine told me they had read about it in *The Vancouver Sun*.

The government has ruled out of hand a suggestion of one of its own caucus members, who happens to be a doctor and who obviously understands the seriousness of this illness. Yet, at the same time, the government has frittered away \$1.764 billion cancelling contracts.

How can the government justify that to women who are suffering from breast cancer and their families?

Senator Boudreau: Honourable senators, I am at a bit of a disadvantage because I do not have the details of that proposal. Was it research? Was it delivery of direct medical services?

Senator LeBreton: It was research.

Senator Boudreau: If it was delivery of direct medical services, as a former provincial minister of health I would be puzzled as to how that would work. If it was for research, I understand.

I would also draw the senator's attention to the major new research program in health that has been announced and is being funded. The proposal for the Canadian Institutes of Health Research is unprecedented in this country in terms of health research. One would think that breast cancer would easily be included as part of that major initiative.

TREASURY BOARD

INCREASE IN NATIONAL CHILD BENEFIT— ADVANCEMENT OF DATE

Hon. Erminie J. Cohen: Honourable senators, the Speech from the Throne announced an increase in the National Child Benefit to take effect in 2002. Information leaked to the *National Post* a few weeks ago put the cost of this measure at about \$650 million in the first year and \$850 million per year when fully implemented.

The National Child Benefit goes to Canada's poorest families. It provides desperately needed money to assist in the cost of food, clothing and shelter. Even with contingency and prudence factors added in, the government expects to have a \$5.5-billion surplus next year.

Are there any valid reasons why the government cannot advance the date of this measure to next year with the increased benefits to Canada's poorest families to be reflected in their July 2000 cheques?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for the

question and I appreciate the support that she has for the program.

The government will have a surplus, and we are all very thankful. The Minister of Finance deserves a great deal of credit for achieving the surplus. However, how the surplus will be apportioned will be weighed against various needs, I suspect all of them very pressing and worthy. I am not sure whether the suggestion of the honourable senator can be entertained at this time, but I will certainly pass it along.

Senator Cohen: Much of that surplus, honourable senators, has been gathered on the backs of the poor. The one drawback of the National Child Benefit is the arrangement that allows the provinces to claw it back from welfare recipients.

Can the government put on hold any expansion of this program and ensure that every penny of the planned increase is paid out, not only to the working poor but to all low-income families?

• (1430)

Senator Boudreau: Honourable senators, I must comment on the incorrect suggestion that the surplus has been achieved on the backs of the poor. Part of the reason for the surplus is our vibrant economy. The actual growth rate in our gross national product is unprecedented. This did not happen accidentally; it is the result of solid, sensible, moderate government policies. The economy has grown dramatically. By exercising discipline in our budgeting, we are at a point where we in Parliament can argue about the priorities we wish to ascribe to a surplus. That is a wonderful situation to be in.

With respect to the specifics of the question, I will not repeat my initial answer, except to say that the suggestions of the honourable senator will be conveyed to the minister in question.

PRIME MINISTER'S OFFICE

LIEUTENANT-GOVERNOR OF NOVA SCOTIA—APPOINTMENT OF SUCCESSOR—POSSIBILITY OF NON-PARTISAN SELECTION

Hon. Gerald J. Comeau: Honourable senators, earlier today under Senators' Statements we heard some praise and comments regarding the replacement of the Lieutenant-Governor of Saskatchewan. That raises the question as to when we might expect a replacement for the Lieutenant-Governor of Nova Scotia who is coming to the end of his term. Can the minister give us advance notice so that we might prepare some adequate statements to acknowledge this replacement?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am relieved. For a moment, I thought the honourable senator was applying for the job. His leaving would be a great loss to this institution.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Are there any other candidates from the Senate?

Senator Boudreau: Frankly, I have no idea who might be named to replace the incumbent. I have not been involved in any discussions to that end. No one has asked me who should be appointed to the position. Thus, having not been asked by anyone, I can only assume that the appointment is not imminent.

Senator Comeau: Honourable senators, the Leader of the Government in the Senate mentioned that I might be an applicant. That might be a good idea.

Some Hon. Senators: Hear, hear!

Senator Comeau: Given the new direction that the Premier of Nova Scotia, the Honourable Dr. Hamm, has taken in trying to reduce the incidence of partisan appointments in Nova Scotia, could we have an indication or a commitment from the minister that the Prime Minister might choose to ask the Premier and members of the legislature to make this one of the first non-partisan appointments in the country?

Senator Boudreau: Honourable senators, if the honourable senator's suggestion were taken up, I wonder if it would be one of the first non-partisan appointments made in this country by any Prime Minister of any political persuasion. I am merely speculating on the meaning of the question.

We can be assured that the Prime Minister, in selecting the new Lieutenant-Governor of Nova Scotia, will seek an individual of high quality and integrity. I am confident those will be his first criteria. I am also confident that he will consult, however, I will not speculate on the formal structures of that consultation. I would be extremely surprised if some discussion did not occur with, for example, the premier of the province among others.

We can be assured that, whenever the appointment is made, the position will be filled with a Canadian, perhaps even a Nova Scotian, of the very highest character.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I request that Item No. 2 on the Order Paper, which is the consideration of Bill C-21, be the first item to be called.

APPROPRIATION BILL NO. 3, 1999-2000

SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-21, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000.

She said: Honourable senators, Bill C-21, also known as Appropriations Act No. 3, 1999-2000, will provide supply in the

total amount of \$3.86 billion as set out in Supplementary Estimates (A) 1999-2000. These Supplementary Estimates (A) are the first for the fiscal year that will end on March 31, 2000, and are consistent with the spending estimates presented in the February 16, 1999 budget.

Honourable senators will recall that the Supplementary Estimates (A) 1999-2000 were introduced in the Senate on November 16, 1999. On November 17, the Senate referred them to the Standing Senate Committee on National Finance. Our committee subsequently met on November 23 and November 30.

On December 2, the committee reported on the Supplementary Estimates (A) to the Senate in the National Finance Committee's second report. Senators will recall that, at the adoption of that report on December 8, last week, I mentioned that these Estimates had been examined in some detail and that our committee had heard from Treasury Board Secretariat officials Richard Neville and Andrew Lieff, who appeared before the committee on November 23. As always, the committee found their testimony to be very helpful and most informative.

I shall now describe some of the major items that had not been specifically identified or sufficiently developed at the time of the Main Estimates 1999-2000, and which now seek Parliament's approval in Bill C-21. These include the following budgetary items which affect more than one government department or agency, and include \$544.7 million related to the year 2000 date problem for 14 departments and agencies. This problem is popularly known as "Y2K". These funds will provide for the financial requirements for departments and agencies to directly ensure Y2K system compliance, and also for international preparedness, central coordination and contingency planning.

Another major item is \$485.7 million to 65 departments and agencies under the carry-forward provision to meet operational requirements originally provided for in 1998-99. This carry-forward provision is a feature of the government's approach, intended to reduce year-end spending and improve cash management of operating budgets. This provision allows managers to carry forward, from one fiscal year to the next, an amount of up to 5 per cent of the operating budget of the previous fiscal year. The operating budget includes salaries, operating expenses and minor capital expenditures.

Another major item is \$482.5 million to six departments and agencies to coordinate Canada's activities in respect of the conflict in Kosovo. Canada has been part of the international community's efforts in this crisis since it began in February 1998. Since the situation deteriorated rapidly in March 1999, Canada has been active, diplomatically and militarily, and in the humanitarian response to the refugee crisis.

Some \$199.4 million is for the Treasury Board Secretariat to distribute funds to departments and agencies to compensate them for the impact of the collective bargaining agreements concluded to date, as well as other related adjustments. Collective bargaining was resumed in early 1997. These funds represent the retroactive and ongoing incremental salary costs for 1999-2000.

There is \$149.5 million to the Departments of National Defence and Veterans Affairs in response to the recommendations of the House of Commons Standing Committee on National Defence and Veterans Affairs which had examined the issues affecting the lives and families of Canadian Forces' personnel.

The sum of \$123.4 million will go to 12 departments and agencies for a government-wide initiative to create employment opportunities for Canada's youth, as announced in the February 1999 budget. There will be a renewal of the Youth Employment Strategy. This strategy encompasses many initiatives including summer employment, internships for First Nations and Inuit youth, with a focus on international trade and development, science and technology, and other related youth programs.

There is \$112.2 million to four departments and agencies for the Canadian Fisheries Adjustment and Restructuring measures intended to address the impact on East Coast communities and individuals of the end of the Atlantic Groundfish Strategy. It is also intended to introduce adjustment and restructuring measures for the West Coast salmon fishery.

Lastly, \$62.1 million in total goes for priority health initiatives as announced in the February 1999 budget. That figure comprises \$34.9 million for Health Canada, and \$27.2 million to the Medical Research Council, which includes the development of the Canadian Health Infrastructure and the promotion of health-related research and innovation.

Honourable senators, I move now to the major items that affect sole departments or agencies. They include \$108 million to Human Resources Development Canada for the Canada Jobs Fund which reflects the government's continuing commitment in addressing the problems of Canadians in those regions of high unemployment. This department will work in close partnership with other levels of government, the private sector, regional developments agencies and community organizations in stimulating employment.

An amount of \$84.1 million goes to the Department of Foreign Affairs and International Trade to provide certain provinces with a share of the revenues collected from fees paid by softwood lumber exporters.

Canadian Heritage receives \$70 million to enhance the official languages support programs by increasing direct support for the development of minority communities and funding for federal-provincial agreements, mainly in the area of minority and second-language education.

Honourable senators, the only non-budgetary item is \$50 million to the Department of National Defence for a temporary increase to the working capital advance account in order to meet the department's pay requirements for Canadian personnel deployed outside of Canada in case of Y2K cash difficulty transition.

Honourable senators, the items I have mentioned represent \$2.47 billion of the \$3.86 billion for which this bill is seeking parliamentary approval. The balance of \$1.39 billion is

distributed among a number of other departments and agencies, the specific details of which are included in the Supplementary Estimates (A) for 1999-2000.

I shall now provide some information on changes to the projected statutory spending. The major statutory items to which there are adjustments in the projected spending amounts are as follows: There is an increase of \$179.5 million to Agriculture and Agri-Food Canada for payments to producers under the various components of the Farm Income Protection Act. The primary purpose of these programs is to provide an agricultural safety net to help producers stabilize incomes and manage risks. Many of these programs are delivered by the provinces or by provincial agencies or corporations.

There is an increase of \$182.3 million to the Department of Finance for provincial equalization payments. This increase reflects changes in the forecasts upon which these payments are based, such as the provincial basis, its population and tax revenues.

There is a minor decrease of \$108.5 million from the \$12.5 billion forecast in the Main Estimates for the Department of Finance for the Canada Health and Social Transfer Payment to the provinces. This is in recognition of a corresponding increase in the value of the tax component of the transfer flowing from higher-than-expected personal income and corporate tax yields. This transfer provides financial support to the provinces for health, post-secondary education, social assistance and social services.

There is an increase of \$79 million to the Department of Finance for alternative payments for standing programs to offset higher recoveries than forecasted in the Main Estimates. The higher level of recoveries reflect higher personal income and, other tax payments.

Honourable senators, these items which I have just described represent an overall increase of \$174.3 million which, when offset by a decrease of \$3.2 million distributed among a number of other departments and agencies mentioned in these Supplementary Estimates (A) for 1999-2000, amount to a net increase of \$171.1 million.

Honourable senators, I thank our committee's new chairman, Senator Lowell Murray, for his diligence and hard work and very practised eye. I thank all members of our committee for their diligent work and, I would again like to welcome all the new members of the committee, especially those new members who are also new senators, being Senator Sheila Finestone and Senator Isobel Finnerty. I would also like to thank a senior senator, a renewed member to our committee, Senator Doody, who occupies the distinguished position of having been a chairman of this particular committee at one point in his career. Having said all of that honourable senators and having extended all my gracious appreciation to all the members for their good and practised work, I take this opportunity to urge all honourable senators to grant supply to Her Majesty and to Her Majesty's government by passing Bill C-21, so that the Government of Canada may proceed to do its business.

Hon. Lowell Murray: Honourable senators, I thank Senator Cools for her kind words. Let me reciprocate but in no perfunctory manner by thanking her for that comprehensive and detailed explanation of this supply bill. She has made my job a good deal easier.

Honourable senators, let me say a word for the record about the context in which we in the Senate consider these measures. Of course, we have the constitutional right to amend or even to defeat any bill that comes before us. Nevertheless, the Senate has recognized that the granting of supply, the imposition of taxes, financial measures in general, are among the most jealously guarded prerogatives of the House of Commons. In the evolving post-war Senate, we have found a way to exercise our responsibilities as a co-equal chamber of this Parliament while, at the same time, respecting the prerogatives of the House of Commons in these matters.

Therefore, we proceed first of all by referring the Estimates to the National Finance Committee. On that point, I recall the intervention yesterday of our friend Senator Bolduc while speaking on another measure. He said:

The Standing Senate Committee on National Finance does not necessarily examine all programs. It tries to examine federal public spending from the point of view of administrative policy in particular, so that its mandate cannot be limited. The mandate must be general with respect to votes and forecasts, but this does not prevent a Senate committee —

He means another Senate committee.

— from examining programs in the areas of health, fisheries and so forth.

Normally, the Estimates are referred to The Standing Senate Committee on National Finance. The committee examines them and reports on them to the Senate. Then we, the Senate, normally expedite the supply bill which comes from the House of Commons, usually shortly thereafter.

In this case, as Senator Cools has pointed out, the committee considered Supplementary Estimates (A) on November 23. We considered them at length and tabled a report on December 2. Senator Cools, who is deputy chairman of the committee, spoke to that report on December 8.

I draw the attention of honourable senators to our report where the committee flagged a number of important matters. Senator Cools mentioned the \$0.5 billion demanded by the government in Supplementary Estimates to deal with the Y2K issue. We also

flagged the write-off of loans to foreign governments. The committee's view was that the government ought to develop a set of criteria which could guide us in judging the appropriateness of any specific loan forgiveness in the future.

It would also be nice to see some relationship adduced between yesterday's loan forgiveness and tomorrow's borrowing policy; that is a personal editorial comment which I am throwing in on my own initiative.

• (1450)

We flagged the additional money, approximately \$44 million, needed for capital projects abroad. That is for the acquisition of land, construction, and so forth, mostly by the Department of Foreign Affairs and International Trade. This brings to approximately \$132 million the amount required in the present fiscal year for that purpose, of which \$70 million seems to be going to the new Canadian quarters in Berlin. We would like to know where the other \$60 million is going; the department has promised to enlighten us on this point at a later date. We wait with bated breath.

[Translation]

The question of recovering the costs incurred by the government for the inquest into the crash of the Swissair flight off the coast of Nova Scotia was raised.

Senator Ferretti Barth has long insisted that the government should be encouraged to continue to claim compensation from Swissair. In the long term, the committee feels that the relevant articles of the Chicago Convention should be changed so that air carriers and their insurers will be obliged to take some responsibility for inquests and the clean-up from air accidents.

We noted that Canada is particularly vulnerable financially because there are more flights in its airspace than in the airspace of other countries.

This is a matter of the utmost concern to us, and Senator Ferretti Barth is right in requesting that the Department of Foreign Affairs look into it as soon as possible.

[English]

Honourable senators, the increase in funds needed for the firearms control program certainly caught our attention at the committee, and Senator Tkachuk raised this issue in Question Period a few days after the committee met.

One other matter among many that we flagged, and I would draw your attention to the entire report, is this whole question of payments under the Crown Liabilities Act. This is one of Senator Doody's favourite subjects, and he pressed it, I thought very effectively, as did a number of other colleagues during our committee hearings. The point raised by Senator Doody was to the effect that we could find no provision in the Estimates for the pay equity case which the government had, not to put too fine a point on it, lost in the courts.

The situation is as follows: When the government is facing litigation of this kind, especially when large sums of money are involved, as there were in this case, it is obviously prudent for the government to set some money aside against the possibility that its lawyers are unable to carry the day in court and before the various tribunals. I think all of us accept that that is a prudent thing for the government to do. In this case, they squirreled the money away in the vote for salaries and benefits where, obviously, it could not be detected by anyone. The officials made it clear to us that, if questions had been raised in the interim, they would have ducked them. Obviously, if it were known how much the government were squirrelling away against the possibility of losing the case, then the government's legal, not to say political, position would be that much more vulnerable.

We understand the context in which the government has quietly put money away and does not want to quantify the amount before the dreaded day arrives when they must pay it out. That being said, however, over a period of years, the government put some hundreds of millions of dollars away, so much per year, in the salaries and benefits vote. None of us detected it, and none of us asked any questions about it. Now that the case is almost over — the government has some other hoops to go through — the government will now, through section 30 of the Crown Liabilities Act, pay the money out. Neither first nor last does Parliament ever get a chance to pronounce on the matter or to discuss the amount that is being paid, how it is being paid, why it is being paid, what the policy of the government is, and so on and so forth. This is a question that exercised our best minds at the committee — Senator Bolduc, Senator Doody, Senator Cools, Senator Moore and others. I should not single these people out because all of the members of the committee took a very keen interest in this matter. We flagged this as another matter that we intend to consider at a later date. To what effect, I cannot predict, but I think it is an important matter.

Honourable senators, having listened to the speech that has been given by our friend Senator Cools, if you glance at or still better read the report that the committee brought in on the Supplementary Estimates that form the basis of this supply bill, then I hope you will agree that the committee did a thorough job on these Estimates and that you can vote for this bill in good conscience.

Motion agreed to and bill read second time.

The Hon. the Speaker: Honourable senators, when shall this bill be read a third time?

Senator Cools: Honourable senators, as we know, one day's notice is required to proceed to third reading of a bill, but I believe that there is a genuine consensus on both sides of the chamber to proceed to third reading now. Having said that, honourable senators, I move that, with leave, and

notwithstanding rule 58(1)(b), Bill C-21 be read for the third time later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. John Lynch-Staunton (Leader of the Opposition): No.

Senator Murray: I do not think it would be possible to give leave. I detect that some of my colleagues on this side feel I have given them so much food for thought in my speech that they need to digest it overnight.

The Hon. the Speaker: Leave is not granted.

On motion of Senator Cools, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Gauthier, for the third reading of Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. A. Raynell Andreychuk: Honourable senators, Bill S-3 was referred to two committees. I will not comment on any actions taken or scrutiny given by the Banking Committee regarding this bill.

At first blush, Bill S-3 is, essentially, a bill for the avoidance of double taxation bill. It covers a number of countries with which we intend to trade and to invest in, and therefore it is in the interests of both Canada and the reciprocal country to have such legislation.

• (1500)

Bills dealing with the avoidance double taxation, honourable senators, are not unique. They have been coming before Parliament for some considerable time. As officials from the revenue agency indicated, they scrutinize two issues to ensure that citizens who do business in other countries are not taxed twice.

The purpose of double taxation bills is to ensure that tax avoidance is not accomplished. Bills of this type give the government more levers to ensure that income which should be taxed in fact is taxed.

However, I am indebted that Bill S-3 received the kind of scrutiny that other bills in the past did not receive and should have received. There is one notable exception, and that is the agreement for the avoidance of taxation that was dealt with in the Foreign Affairs Committee, as opposed to the Banking Committee, in May of 1998. If my memory is correct, that agreement covered countries such as Croatia, Chile and Vietnam. The Foreign Affairs Committee expressed real concern that the issue should not be taxation only but that the issue of dealing with legislation must be taken in light of all aspects of foreign policy.

As honourable senators know, once we deal with a country, we are in many cases co-opted into their structures, values and attitudes. At the time of the committee's review, Senator Di Nino and other members — I believe Senator Grafstein as well — raised concerns that we need assurances that the countries with which we sign agreements for the avoidance of taxation have appropriate structures in place, such as an independent judiciary. They must adhere to the rule of law.

Honourable senators, great emphasis was placed on the issue of confidentiality. If businesses are to go overseas and be obliged to disclose their inner finances and workings to another country because of an agreement dealing with the avoidance of double taxation, we must be certain that those countries use that information only for the purposes contemplated in the taxation agreement and not for other issues.

I know from experience that there is no such thing as confidentiality in many other countries. If one department receives certain information, they are less mindful of the rules of procedure, confidentiality and respect for the rights of individual citizens. Fortunately, those countries are diminishing in number, but they are still of concern.

In May of 1998, although we passed the bill dealing with the avoidance of double taxation, we raised the issue that the Department of Foreign Affairs should make a complete analysis as to whether the country with which we are to sign an agreement for the avoidance of double taxation has a good human rights record, proper constitutional capacities, practices and procedures, and a proven track record. We must be assured that we are not impacting our citizens and their citizens in a negative way by signing the agreement. That comment was made in this chamber. We signalled to the Department of Foreign Affairs and the other ministries involved that all agreements of this type should be reviewed in that light.

Honourable senators, my comments to officials of the Department of Foreign Affairs were that no avoidance-of-taxation bill should come before Parliament without a full and complete analysis of the capability and the human rights record of the country in question. We were assured that this analysis was in keeping with what the government of the day deemed to be good practice. However, our suggestions in respect of that bill appear not to have been followed.

I am very pleased that Senator Lynch-Staunton forcefully raised the issue of human rights, and this chamber should be indebted to him. He questioned to which committee this bill

would be sent. Would it be dealt with strictly by the Banking Committee, or would it be more logically dealt with by the Foreign Affairs Committee? I am pleased that this chamber referred the matter to the Foreign Affairs Committee.

In his remarks, Senator Lynch-Staunton indicated that we in this chamber should bridge the gap between our fine words about human rights and our actions on a day-to-day basis. I believe we should take those comments into account.

Another issue we should be mindful of is that the Foreign Affairs Committee filed an Asia-Pacific report entitled "Crisis in Asia: Implications for the Region, Canada and the World." We in this chamber take great pride in our reports. Passing these reports unanimously gives me some confidence that we believe that the policy statements and the recommendations made in our reports have value and should find resonance in the government of the day.

At page 97 of our Asia-Pacific report, we indicated that foreign policy takes into account factors supporting adherence to human rights issues, such as good governance, democratization and civil society, the rule of law and the need for an independent judiciary. This is not an exhaustive list, but these factors should be taken into account before we enter into arrangements and relationships with other countries.

At page 109 of our report, we talked about principles for a coherent Canadian human rights policy. At page 104 of our report, we quoted from Dr. Maureen O'Neil, President of the International Centre for Human Rights and Democratic Development, when she stated before our committee that:

It has become increasingly clear that issues of trade and investment ought not to be discussed in isolation from human rights and democracy.

We noted in our report an address given by the Honourable Lloyd Axworthy, where he indicated that human rights and foreign policy led to a principled and pragmatic approach to international trade and foreign affairs. Therefore, as the committee indicated in its report, trade and investment do not stand alone. They are to be judged with human rights.

It is extremely important, honourable senators, that the Government of Canada and the projection of Canada's image in the world lead to a systematic, consistent and principled approach to human rights. Human rights must not be dealt with separate from other issues. Human rights permeates all of agendas and all legislation. We must look at all of the issues.

In the Foreign Affairs Committee, officials from the new revenue agency said that, quite frankly, they only looked at the two issues of tax avoidance and double taxation because that is their mandate. However, one of the difficulties is that we no longer have a revenue department. It is not bound by the same practices and principles by which a normal ministry is bound. The employees of the revenue department do not have the same responsibilities. I point this out because in the introductory chapter of the Auditor General's report of November 1999, at page 18, the Auditor General stated:

• (1510)

I am concerned, however, that the government has not given proper attention to the implications for accountability and good governance. By their very nature, these arrangements challenge the traditional accountability relationship that sees ministers answerable to Parliament for their policies and programs and, through Parliament, to citizens at large. Since other parties are also involved in these arrangements, ministers are never wholly responsible for them. In some cases, arrangements have intentionally been set up to be totally independent from ministers, even though they may depend on federal funds and federal authority. Without appropriate accountability and good governance mechanisms, these arrangements can erode the ability of Parliament to scrutinize the use of federal power and the right of citizens to accountable government.

The revenue agency implements taxation policy. They have a strict mandate which they follow. When they were questioned as to whether they considered issues such as human rights, good governance and constitutional capacity, they indicated that they take their cue from foreign affairs. If the Department of Foreign Affairs indicates that there is a diplomatic relationship with a government, the revenue agency does not go beyond that. That is not their mandate, so far.

Therefore, the Department of Foreign Affairs is the agency that should be scrutinizing these countries to determine whether or not they are the types of countries with which we should be signing international instruments.

From the testimony of the foreign affairs officials, it is clear that there is not an independent and systematic process in place in their department to ensure that the countries that we are signing double taxation agreements with are countries with which we wish to deepen and broaden our relationships.

Senator Lynch-Staunton used the example of Uzbekistan. The record of Uzbekistan is not exemplary. Uzbekistan suffers from the legacy of the Soviet Union. It has made some changes, but certainly not significant changes in its governance. There have been human rights abuses, and there continue to be human rights abuses in Uzbekistan that should worry us.

On the other hand, Uzbekistan has signed international covenants where their officials indicate that they will respect human rights. That is at least an indication that they will allow some international scrutiny of their internal practices. They have been left an appalling legacy, environmentally and politically, from the Soviet Union. One need only consider the condition of the Aral Sea to understand the types of environmental dilemmas they face; and one need only look at the terrorism that has emanated from that country to understand their political legacy.

My concern is that no one has given the countries covered by Bill S-3 a systematic examination. I do not know how other countries, for example, Algeria, Bulgaria, Jordan, Japan, Lebanon and Luxembourg, stack up against Uzbekistan and I do

not know how they stack up against a world standard on human rights. I do not know what principles or practices are used to adjudge whether or not they are countries with which we should be dealing. It would seem that no one has made the proper analysis.

While I respect that we should have agreements for the avoidance of double taxation, I firmly believe that we should not single out any country until we have scrutinized it and are satisfied that it meets our good governance standards. It would be unfair to single out one country on the list in Bill S-3 without having had some systematic assessment of all the countries with which we have such agreements.

As you know, Portugal and Luxembourg, for example, are, with Canada, member countries in NATO and the OECD which means that we can have some assurance of their policies. Canada has always relied on the Universal Declaration and we attempt to judge all countries against a similar standard. We do not single out any country as an example. When we do not deal with a country or cease to have a relationship with a country, we do it because there are certain principles upon which we have adjudged them to have failed the test.

It is clear from our analysis of Bill S-3 that the government has not put those standards in place. The government has not respected the committee's previous requests for such standards. Therefore, it would be unfair to single out these countries at this time. I do not think that we should judge countries randomly. It should be done consistently and systematically.

Should any other agreements for the avoidance of double taxation be introduced in this chamber, and whether they are referred to the Foreign Affairs Committee or the Banking Committee, I and my colleagues from this side will demand that those principles be in place and that the countries have been fairly and adequately adjudged against those practices and principles. If that has not been done, then the proposed legislation will fail.

I would raise one other point that relates to the human rights issue. If we are a country of traders, so dependent on trade that we encourage our citizens to invest elsewhere and to trade elsewhere by setting out an agreement for the avoidance of double taxation, then we are, in effect, putting a stamp of approval on the practices of those countries. That stamp addresses the issue of human rights, good governance, the rule of law and the independence of the judiciary of which I have spoken.

We are also sending the message to those citizens that they must abide by the double taxation rule and that they must provide financial information to another country. We must ensure that, when we sign these agreements and send the signal to businesses that we recognize that they may go abroad, we have some measurable way to ensure that the information of our businesses is not used in nefarious ways, and that our citizens are not vulnerable to the kinds of attacks or treatment that would be of a standard lower than they should expect in Canada.

Honourable senators, I have made the point more than once, and I hope I have made it forcefully: There has been no implementation of the recommendations of the Foreign Affairs Committee report, and there has been no assurance that these countries have good governance, are accountable, and judge fairly and systematically themselves and others.

Bill S-3 illustrates that we have failed the test. Therefore, it would be very difficult for me to say that others have failed the test. We must get our house in order.

Minister Axworthy talks about principled foreign policy; and those are fine words. I am looking to the Government of Canada and the Department of Foreign Affairs to put those words into practice so that when the next double taxation bill comes before us, government officials can assure that a standard has been set, and that the countries with which we are signing agreements meet those standards.

Hon. Nicholas W. Taylor: Honourable senators, I have listened with interest to the experienced words of Senator Andreychuk. Although I only recently joined the Foreign Affairs Committee, in my business experiences I operated in approximately 20 countries in the world. I recognize that it is not as easy as it might sound to sit in this chamber and call for moral and human rights standards in other countries and to measure them against our yardstick.

• (1520)

It reminds me of the old Greek story of Procrustes. When guests in the house were too tall for the bed, he cut off their feet, and if they were too short, he put them on the rack to stretch them. In some ways, this is the type of argument that I hear coming from the other side, namely, that the country must fit our Procrustean bed or we should not be dealing with them.

We must examine a few areas, not only human rights but the environment and trade. Through the years, my observation has been that the best way to get good ideas to flow is through trade. It might have started back when the Portuguese began travelling into Africa, Asia and so on.

Senator Andreychuk: That brought us slavery!

Senator Taylor: Yes, many bad ideas came across into the New World, too. However, trade seemed to be the one way to improve human rights and human activity in each area. It was good. You cannot compare what went on in the 1500s with today. We have progressed, and much of that progression seemed to come about through trade, not by countries sitting back and saying that we are better than others and that we will not associate with other countries unless they become as good as we are. That is a suspicious way of approaching the subject.

Senator Andreychuk said that perhaps they do not measure up here or there, but with respect to trade you must ask: Is the country progressing in human rights or regressing? If it is

progressing but still short of the level we want, we should encourage them by continuing to trade with them. However, if it is regressing and taking away rights that the people had a generation earlier, then perhaps we should use trade as an instrument to try to bring them around, to get them to give more benefits to their society, in both the fields of environment and human rights. Perhaps because I am a geologist by background, I feel that we have to determine if they are evolving or regressing. If a state is evolving to higher standards, even though they are not at the level we are at, it may be worthwhile dealing with them.

The honourable senator talked about Uzbekistan. We have both been over in that part of the world. It is a dirty trick, in a way, to pick on Uzbekistan, because they sit next to Afghanistan, which is ruled by the Taliban movement. I would defy even Canada to be very tolerant if we had Taliban fighters right on our borders, going back and forth across the mountains. We must remember the problems that the government of Uzbekistan faces. They are not dealing with a nice, peaceful group such as the Conservatives, the NDP, or the Liberals; they do not operate on the same wavelength. Therefore, to say that they should be using the same system is a bit unfair.

My personal opinion is that Uzbekistan is coming along quite well. Having spent time in Iran and Afghanistan, I think that Uzbekistan is light-years ahead of them in some ways.

To return to the point, it becomes difficult to measure how people are progressing. We can really only look at whether they are evolving, and remember the historic importance of trade since time immemorial. If you go back to the first Greek writers who wrote about Greek influence in Africa, you will learn that trade has been the vehicle by which culture and ideas flowed from one area to another. You must have the faith that if the ideas and the culture are good, they will ultimately survive, rather than the evil ideas or evil cultures that are moving a society backward with respect to human rights.

In general, honourable senators, although there may be a few steps backward, mankind seems to evolve, and the instrument through which that evolution takes place is trade. Sometimes that is preceded or followed by missionaries but, nearly always, trade is the ultimate, unbiased means by which ideas and culture flow.

I question anyone or any group that tries to tell us in Canada that we should not deal with this or that country because the country is not up to a certain standard. I still think that, in the long run, trade will make for a better world and a better Canada.

Senator Andreychuk: Honourable senators, would Senator Taylor entertain a question?

Senator Taylor: Certainly, although I am very busy tonight.

Senator Andreychuk: I am sure the question will not take too long.

The honourable senator is making the argument that I heard five years ago from the government, namely, that trade stands alone and we do not mix in human rights issues. In recent times, though, Minister Axworthy has clearly stated that there is a link between human rights and trade. The honourable senator rightly pointed out something with which I agree, which is that we should look to see whether a country is doing better or attempting to do better on its human rights record, or is regressing.

My question is in two parts. First, does the honourable senator therefore not believe that the government's policy of linkage is correct? Second, does he not think that the standard I was talking about was equivalent to the principles he mentioned, that is, whether a country is moving ahead in human rights or regressing?

Senator Taylor: Honourable senators, I am glad the honourable senator recognized the concept that, if countries are evolving and moving ahead, we should measure them with a different yardstick than if they are regressing or taking away rights.

Certainly, the ultimate weapon of trade is through sanctions. We have used trade sanctions in Africa, although some will argue that they did not do much good. We used sanctions in Bosnia, and in some ways that caused the problem in Kosovo. We did not

let up on the Serbs when they looked like they were trying to go somewhere, so they asked themselves what would be the use of trying to satisfy us, and they went ahead their way. If we had been trading with Serbia, it could have gone quite a long way in trying to prevent the disaster in Kosovo.

I do not want to sound like a rebel here, but I do not link trade and human rights as tightly as the honourable senator says our Foreign Affairs Minister links them. I am not quite that far along. Let us look at our relationship with China. We do a lot of business with China and make lots of money out of that trade, but the standard there seems to be different from the one we are using for Uzbekistan where we buy only a few hides. In other words, we have to be careful that a large economy in certain areas does not hide all sorts of ill effects.

I still think trade is the ultimate way to improve those situations. The Foreign Affairs Minister has not proven to me that any area is better because we cut them off from trading with us.

On motion of Senator Lynch-Staunton, debate adjourned.

The Hon. the Speaker: Honourable senators, it is now 3:30, and by order of the Senate, the Senate will now adjourn until 2 p.m. tomorrow.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, December 15, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		Senator Murray	502
Hockey Legends		Senator Lynch-Staunton	502
Team Canada 1999, Senator Mahovlich	497	Senator Hays	502
Alberta		Senator Cools	502
Appointment of Lieutenant-Governor Lois Hole.			
Senator Fairbairn	498	QUESTION PERIOD	
Senator Taylor	499	Finance	
Saskatchewan		Term Limits of Members of Canada Pension Plan Investment Board.	
Appointment of Lieutenant-Governor Lynda Haverstock.		Senator Tkachuk	502
Senator Carstairs	499	Senator Boudreau	502
Senator Tkachuk	499		
Distinguished Visitors in the Gallery		Transport	
The Hon. the Speaker	499	Restructuring of Airline Industry—Effect of Air Canada Monopoly.	
		Senator Oliver	503
		Senator Boudreau	503
		Senator Di Nino	503
ROUTINE PROCEEDINGS		National Defence	
Air Canada		Replacement of Sea King Helicopter Fleet, Senator Forrestall ...	503
Order in Council Issued Pursuant to the Canada Transportation		Senator Boudreau	503
Act to Allow Certain Major Air Carriers to Negotiate—			
Third Report of Transport and Communications Committee		Health	
Presented, Senator Bacon	500	Increased Spending for Breast Cancer Research.	
Energy, the Environment and Natural Resources		Senator LeBreton	504
Second Report of Committee Presented, Senator Spivak	500	Senator Boudreau	504
Recommendations of Royal Commission on Aboriginal Peoples		Treasury Board	
Respecting Aboriginal Governance		Increase in National Child Benefit—Advancement of Date.	
Report of Aboriginal Peoples Committee on Study Presented.		Senator Cohen	505
Senator Watt	500	Senator Boudreau	505
Adjournment		Prime Minister's Office	
Senator Hays	501	Lieutenant-Governor of Nova Scotia—Appointment of Successor—	
Canada-Japan Inter-Parliamentary Group		Possibility of Non-partisan Selection, Senator Comeau	505
Report of Canadian Delegation to Tenth Annual Bilateral		Senator Boudreau	505
Meeting with Japan-Canada Parliamentarians Friendship		Senator Kinsella	505
League Tabled, Senator Hays	501		
Canada-Europe Parliamentary Association		ORDERS OF THE DAY	
Report of Canadian Delegation to the Organization for Security		Business of the Senate	
and Co-operation in Europe Parliamentary Assembly from		Senator Hays	506
November 17-19, 1999 Tabled, Senator Grafstein	501	Appropriation Bill No. 3, 1999-2000 (Bill C-21)	
Canada-China Legislative Assembly		Second Reading, Senator Cools	506
Report of Canadian Delegation to Second Annual Meeting		Senator Murray	508
from October 25-31 Tabled, Senator Austin	501	Senator Lynch-Staunton	509
The Senate		Income Tax Conventions Implementation Bill, 1999 (Bill S-3)	
Notice of Motion in Support of Declaring Ottawa Officially Bilingual.		Third Reading—Debate Continued, Senator Andreychuk	509
Senator Gauthier	501	Senator Taylor	512



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Cœur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 23

OFFICIAL REPORT
(HANSARD)

Thursday, December 16, 1999

—
THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



Government
Publication

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, December 16, 1999

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

RICHARD G. GREENE

TRIBUTES ON RETIREMENT

Hon. Joyce Fairbairn: Honourable senators, I should like to say a special Senate farewell to a man whom I am proud to be able to call a friend, our retiring Deputy Clerk, Richard Greene. I would not want Richard to leave without saying publicly how much I have relied on the wisdom, knowledge and skill he offered so generously to me long before I ever entered the Senate.

I was reading his resumé yesterday and noted that he started his career in this place as a page in 1956. That was the same year I set out from Lethbridge on an adventure that would take me and other young Canadian and American students all across this country and down to the United Nations for a week. I was 16 years old and had never been east of Medicine Hat. It was my very first visit to Ottawa and Parliament Hill. As I trotted up to the Peace Tower, as thousands of students do each year, Richard was ahead of me, beginning what he probably thought was just an interesting work experience to get him started. Clearly, both of us were bitten by the bug that exists within these walls, and it has become the workplace of a lifetime.

I met Richard first when I worked with Prime Minister Trudeau and was told that part of my job was to "get along" with the Senate. The first priority, of course, was to meet someone named Jean Sutherland, who was widely and respectfully regarded as, I quote, "the lady who runs the Senate." From what I could gather at the time, she seemed to be a key element that kept this place purring along.

Jean Sutherland had a young assistant who knew pretty much everything about how the Senate operated, what was happening with legislation, and the pitfalls that might befall a careless government if it did not keep its mind on the right course of consultation and cooperation. He was there also to keep people like myself from bothering Jean Sutherland, so he had to know everything that she did.

That person, of course, was Richard Greene. Apart from all the skill that Richard possessed, he was also a wonderful guy, and we became cheerful friends at once, in spite of the fact that I was usually calling him when something was threatening to move down the wrong track.

I would venture to say that the Senate of Canada has never had as loyal an employee as Richard Greene. Whatever the pressures,

his focus has always been on ensuring this place was functioning correctly and not on the political preoccupations of its inhabitants, to whatever party they might belong. In my experience, he has never lost his patience or his sense of humour, which is more than I can say for myself. I am sad that he has chosen to leave us, but I know that his real family — Ethel, Lesley and Steven — will be delighted to become the focus of his attention.

Last week, honourable senators, this house adopted a motion designating Richard as an honorary officer of this place with an entry to the Senate and a seat at the Table on occasions of ceremony, and I hope he will perform these duties fully and spend time with us in between.

I simply assure Richard that our friendship will never end. I wish him all the best in the new challenges and adventures life has in store for him.

• (1410)

Hon. Sharon Carstairs: Honourable senators, when Richard Greene arrived here in 1956, he arrived with a newly appointed group of senators that included the likes of Chubby Power, David Croll, Hartland Molson, Muriel McQueen Fergusson and my father, Harold Connolly. At about the same time that he began his wanders through this chamber, I began my wanders through this chamber because I came frequently with my father during those early years of his appointment.

I am not sure if Richard knows this, but I was responsible for one black Cadillac hitting another black Cadillac out in front of the Senate entrance, when Senator Basha's wife insisted that I drive Senator Basha's Cadillac. He and I will both remember that in those days there was still some work going on within the chamber corridors with regard to sculpting. Up would go the scaffolding and down would come the scaffolding, and a new gargoyle would appear overnight. Those are the memories I have as a 12- to 15-year-old girl wandering around this place. Those memories, I share with Richard Greene.

Honourable senators, there is a special relationship between the Deputy Leader of the Government in the Senate and the position filled by Richard — that is, until he announced his retirement. Each day, at a time usually around 10 a.m. or 11 a.m., Richard Greene would arrive in the deputy leader's office with "the scroll." Many senators do not know what the scroll is, but it is those long pieces of paper held by the Deputy Leader of the Government and the Leader of the Opposition. It shows what will happen in this chamber. Richard and I would sit down together and decide whether it was right for the day. By that, I mean that Michelle MacDonald, my assistant, would take great pleasure in finding Richard's mistakes. We did not find them very often, but when we did, we would have a great chuckle that the document had not arrived in its usual pristine form. Michelle joins me in saying how much we miss those daily occurrences in my office.

Richard was a professional to the end. He had an amazing capacity to listen, to take note of what he heard, and to do everything he could to make life just a bit easier — not only for the deputy leader and the leader of the Senate but also for every other senator in this chamber. I needed his support and help, and he gave it to me willingly, and with affection and good humour.

I thank you for those years in which we worked together, Richard. You will be missed.

Hon. Marcel Prud'homme: Honourable senators, there is an underlying plot here that we did not see. My good friend Mr. Greene has attempted a nice coup. He has a superb memory about everything that has taken place in the House of Commons and the Senate. I am sure he recalls that when the Right Honourable Prime Minister Pierre Elliott Trudeau announced his resignation, Parliament sat for hours. So many tributes were paid to him that we all know what happened: He came back. I think Mr. Greene was highly inspired by that event.

Honourable senators, I cannot believe that the senior staff member of both Houses would drop me like this. With his departure, I will now become the second longest-serving person here — that is, after Herb Gray on the other side.

Mr. Greene and I have travelled and worked together. Mr. Greene and his wife were very kind to one of my sisters when we travelled together, and we became friends.

I have not prepared notes, honourable senators, because I did not want my remarks to become merely functional and official. We will miss Richard, but I still believe that, ultimately, he will not leave this place. Look at him now, smiling and enjoying all the good words that we are saying about him. However, soon he will have no choice but to say, "After listening to how upset you are at my leaving, I have changed my mind and will stay." That is what I am hoping he will do.

Nevertheless, in case he does decide to leave this place, I want him to know that I, for one, will always be his friend. On behalf of all honourable senators, I should like to personally offer to him and to his wife our very best.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

THE ORGANIZATION FOR SECURITY AND CO-OPERATION
IN EUROPE PARLIAMENTARY ASSEMBLY
FROM OCTOBER 13 TO 15, 1999

Hon. Jeremiah S. Grafstein: Honourable senators, later this day, I will table in the Senate the report of the Parliamentary Assembly, OSCE, Second Parliamentary Conference entitled "Subregional Economic Cooperation Processes in Europe Faced with the New Challenges," held in Nantes, France, from October 13 to 15, 1999.

The history and theory of economic regionalism came alive at the Nantes conference through the creative leadership of our good friend Jacques Floch, the distinguished member of the National Assembly of France. When Jacques, Chairman of the

Economic Committee of the OSCE, invited me, as deputy chairman of that committee, to describe the unique region of Canada, none was more appealing than Canada's North.

Examine the globe from the top down and you will see that the circumpolar region is the largest untapped, unmapped region in the world. You will notice that North America and Europe are close geographic neighbours. The United States lies only a narrow waterway away from Russia, the former land bridge called the Bering Strait. Canada closely parallels all northern extremities of Russia, and as we move along the circle beyond the 60th parallel, we note the proximity of the northern reaches of the Scandinavian countries: Norway, Sweden, Denmark, Finland, Iceland and the Baltic states. You will recall the early dreams of a northwest passage to China, which first excited the earliest explorers from Jacques Cartier, who left for Canada over five centuries ago from Saint-Malo, up the coast from Nantes, where we held our meeting.

On closer examination, the northwest sea passage, transversing the top of the globe, is 2,200 to 2,900 nautical miles in length, depending on the exact route. Planners tell us that a viable water route following a plan promoted by Russia could shorten sea routes from Europe or Asia by 35 per cent to 60 per cent. The obvious impact on travel costs and cost efficiencies could trigger economic benefits and development all along any new northern sea route.

As co-chair of the Canada-U.S. Inter-Parliamentary Group, I attended a conference in Washington when Senator Murkowski of Alaska, our U.S. co-chair, painted an exciting vision he had sketched at our meeting at Quebec City earlier this year in Canada. He proposed that Canada and the U.S. combine to create a north-south rail link between Alaska, the Yukon and British Columbia in Canada, all the way to the U.S. border, by completing 900 miles of rail link. Senator Murkowski went on to project a further rail link beyond the Arctic Coast. This new rail link could ultimately connect with a tunnel under the Bering Strait to mainland Russia. Eurasia and North America are just 50 miles apart at this point and almost touch each other like two fingers reaching out. Thus, a rail link — even a road link — between Russia, the United States and Canada could be established with technology developed in Europe for the "chunnel".

Imagine boarding a train from London to Paris, travelling via rail on a high-speed trans-Siberian express across Russia to the Pacific Coast, continuing by tunnel under the Bering Strait to Alaska, then swiftly moving south through the Yukon to British Columbia, to Vancouver in Canada, and then south to Hollywood or east to New York City or Halifax on the Atlantic Coast. All this will be economically feasible early in the next century. It could transform the strategic platform of the world economy and alter dramatically strategic and economic relationships.

Once again, I wish to thank Jacques Floch of France for inspiring us to imagine a northern vision for the 21st century, spawning new economic partnerships for the benefit of all citizens of the globe.

I take this opportunity to wish all senators a merry new millennium.

[Translation]

CONTRIBUTIONS OF PROMINENT CANADIAN WOMEN

Hon. Lucie Pépin: Honourable senators, the century that is coming to a close has seen some major changes for the women of Canada in all spheres of activity. These changes would have been impossible without the untiring efforts of a number of truly exceptional women, women who were not afraid to work untiringly for social justice and change, in the face of strong opposition.

As a society, we owe them a great deal. On the eve of a new millennium, it is only right for us to call them to mind and to pay tribute to them.

[English]

Time prevents me from mentioning them all. In naming the small number I will today, my heartfelt appreciation is extended to all Canadian women who have made an impact on women's equality over the last century.

[Translation]

This year, we are celebrating the 70th anniversary of the Persons case. No one could speak of the changes in women's lives without referring to the Famous Five: Irene Parlby, Nellie McClung, Emily Murphy, Henriette Muir Edwards and Louise McKinney, who succeeded in having the Judicial Committee of the Privy Council declare that the term "person" in the British North America Act included women, and that women could be appointed to the Senate.

And what about Agnes MacPhail, the first woman elected to the House of Commons in 1921? Without her and the Famous Five, how many of us women would be here today?

• (1420)

Thérèse Casgrain was the first Canadian woman to lead a political party. Between 1942 and 1962, she was elected nine times to federal and provincial legislative assemblies. A president of the Ligue des droits des femmes, she helped found the Fédération des femmes du Québec, and the Voix des femmes, a peace movement. One of the most important things we will remember Mrs. Casgrain for is getting Quebec women the vote.

Jeanette Viviane Corbiere Lavell is another exceptional woman who devoted her life to defending the rights of native women. In 1971, she challenged section 12 of the Indian Act, which decreed that native women who married non-natives lost their native status. The Supreme Court ruled against her, but Sandra Lovelace decided to take the case to the UN Human Rights Commission, and the Indian Act was amended in 1985.

There is also Madeleine Parent, who was active for 40 years in Quebec's union movement. In 1942, she presided over the unionization of Dominion Textiles' garment factories, where most employees were women. Nor should we forget the late Senator Yvette Rousseau, who was one of the pioneers in unionizing the garment factories.

Also memorable is Kay Livingston, the founding president of the Canadian Negro Women's Association, who was the key organizer of the First National Convention of Black Women in Toronto. The convention is still held today, a lasting tribute to her efforts.

Other Canadian heroines include Elizabeth Bagshaw, Dr. Marion Powell and Dr. Lise Fortier. Dr. Bagshaw was the director of the first birth control clinic in Canada. She directed the Ontario clinic illegally from 1932 to 1966. Dr. Powell did the same in Toronto. Dr. Lise Fortier established the first family planning clinic in Quebec and worked tirelessly to obtain the right to choose for Canadian women.

There have been many exceptional women in our history, whether in politics, health care or human rights. All have shown courage, tenacity, leadership and talent. Without them, Canada would not be the dynamic, prosperous and exemplary democracy that it is today. Let us hope that there will be as many heroines in the 21st century as there were in the last decade. And may these words of Nellie McClung inspire our heroines of tomorrow.

Never retreat, never explain, never apologize. Get the thing done and let them howl.

[English]

THE SENATE

CONDITION OF SENATOR WILLIE ADAMS

Hon. Isobel Finnerty: Honourable senators, I am very happy to report that Senator Willie Adams, who had major surgery yesterday, is recovering extremely well and will, hopefully, be back soon. The prognosis looks very good.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in the gallery of Richard Greene's wife, Ethel, and their son, Steven.

Honourable senators, I know that Speakers are not permitted to speak in debate, but on this occasion I should like to say a personal thank you to Richard, a friend with whom I have worked for more than 29 years.

ROUTINE PROCEEDINGS

SECURITY AND INTELLIGENCE

GOVERNMENT RESPONSE TO REPORT
OF SPECIAL COMMITTEE TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table, with a pleasure which, I am sure, will be shared by other honourable senators when they read it, the government's response to the report of the Special Senate Committee on Security and Intelligence.

STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE
ON STUDY PRESENTED

Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, December 16, 1999

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

THIRD REPORT

Your Committee, which was authorized by the Senate on Tuesday, November 23, 1999, to examine and report upon the present state of the domestic and international financial system and to present its final report no later than December 31, 2000, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of its examination.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets and Administration on December 16, 1999. In its Second Report, the Committee noted that it is undertaking a review of the budgetary situation pertaining to Senate Committees, and recommended that no more than 6/12 of the funds be released until February 10, 2000. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

E. LEO KOLBER
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kolber, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

INTERNAL ECONOMY, BUDGET AND ADMINISTRATION

THIRD REPORT OF COMMITTEE TABLED

Hon. Bill Rompkey, Honourable senators, I have the honour to table the third report of the Standing Committee on Internal Economy, Budgets and Administration, regarding the appointment of the Deputy Clerk and Principal Clerk, Legislative Services.

With leave of the Senate, I would ask permission to say a few words at this time.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Rompkey: Honourable senators, I want to welcome Gary O'Brien to his new position.

Hon. Senators: Hear, hear!

Senator Rompkey: Gary needs no introduction to any of us. He has served us faithfully and well. He is a rather deceptive person because behind that rather meek exterior lies much experience and knowledge. He personifies that old saying that still waters run deep. This is Dr. Gary O'Brien, a Ph.D., who has academic merit in his own right, including being an expert on John F. Kennedy. He is a teacher. He has been engaged in a number of extra-parliamentary activities and he has brought honour to this chamber in that regard.

Above all, Gary has given us outstanding service. He is one of those who is intent upon serving. I have been impressed with the concern that Gary takes in the service that he provides to us all. He wants to ensure that things are done properly and he spares no effort to do that for us. I know that he will continue that attitude in his new position.

Welcome to your new position, Gary, and congratulations.

Honourable senators, I also want to say thank Richard Greene. Among other things, Richard has a great sense of humour.

Allow me to recount an apocryphal story. I will not attribute the source, but I am told that when Richard first came to the Senate, there was a suit available for the person who would fill the job. It was a suit for a height-challenged and rather rotund male. Richard fit the suit perfectly. He got the job and has been with us ever since. Therefore, you might say that Richard was well suited to the Senate.

Senator Carstairs said that Richard has been involved with a number of bashes, one in which she, too, was involved. I am sure that Richard was involved in more than one bash around this chamber over the years.

Richard exercised real power in this place. He was responsible for Royal Assent here. As you all know, judges sometimes replace the Governor General in our Royal Assent ceremonies, but they must have the proper written authority to do so. It has happened from time to time that eminent jurists of this land have come here for the ceremony without the proper written authority, and Richard would send them back to get it. That is the exercise of power.

• (1430)

Richard, I want to say congratulations from Gerry and Nicky as well.

Honourable senators, if I may, I wish to congratulate those of the table officers who have moved on to other appointments. We welcome them to their new positions. We congratulate them and thank them for their work in the past. We know they will keep up their high standard of work for us in the future.

At this time, I would also thank all of the people who work for us in this chamber, both on this floor and elsewhere, and those who keep our record. I thank them for the high quality of service that they have provided to us. I wish them and all honourable senators a very happy season.

[Translation]

The Hon. The Speaker: Honourable senators, is leave granted to allow Senator Nolin to speak?

Hon. Senators: Agreed.

Hon. Pierre Claude Nolin: Honourable senators, as the vice-chair of the Committee on Internal Economy, Budgets and Administration, I, too, would like to welcome Gary O'Brien and wish him every success in his work.

I know Gary fairly well, as I have worked with him for the past five years on that committee. He is a most efficient man, and a very reserved man as well. As Senator Rompkey has said, behind his meek exterior there certainly lurks a man of great efficiency and joie de vivre. I therefore join with Senator Rompkey to wish Mr. O'Brien good luck, wishes I also extend to all of his colleagues at the table who have recently assumed their new duties.

[English]

NATIONAL DEFENCE ACT DNA IDENTIFICATION ACT CRIMINAL CODE

REPORT OF COMMITTEE

Hon. Lorna Milne, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 16, 1999

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill S-10, An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code, has, in obedience to the Order of Reference of Thursday, November 18, 1999, examined the said Bill and now reports the same with the following amendments:

Page 9, Clause 1: add after line 19 the following:

“(3) A peace officer, or any person acting under a peace officer’s direction, who is authorized to take samples of bodily substances from a person by an order under section 196.14 or 196.15 or an authorization

under section 196.24 may take fingerprints from the person for the purpose of the *DNA Identification Act*.”

2. Clause 9, page 18:

(a) Replace line 26 with the following:

“**19. (1) The portion of subsection 487.06(1) of”;**
and

(b) Add after line 38, the following:

“**(2) Section 487.06 of the Act is amended by adding the following after subsection (2):**

(3) A peace officer, or any person acting under a peace officer’s direction, who is authorized to take samples of bodily substances from a person by an order under section 487.051 or 487.052 or an authorization under section 487.055 or 487.091 may take fingerprints from the person for the purpose of the *DNA Identification Act*.”

Respectfully submitted,

LORNA MILNE
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Milne, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

STATISTICS ACT NATIONAL ARCHIVES OF CANADA ACT

BILL TO AMEND—FIRST READING

Hon. Lorna Milne presented Bill S-15, to amend the Statistics Act and the National Archives of Canada Act (census records).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Milne, bill placed on Orders of the Day for second reading on Tuesday, February 8, 2000.

INTER-PARLIAMENTARY UNION

REPORT OF CANADIAN GROUP ON 102ND INTER-PARLIAMENTARY CONFERENCE HELD IN BERLIN, GERMANY TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table the report of the Canadian Group of the Inter-Parliamentary Union which represented Canada at the 102nd Inter-parliamentary Conference held in Berlin, Germany, from October 10 to October 16.

REPORT OF CANADIAN GROUP ON 54TH SESSION OF UNITED
NATIONS GENERAL ASSEMBLY HELD IN NEW YORK TABLED

Hon. Sheila Finestone: Honourable senators, I have the honour to table the report of the Canadian Group of the Inter-Parliamentary Union, which represented Canada at the 54th Session of the United Nations General Assembly, held in New York from October 25 to 27, 1999.

**CANADA-EUROPE
PARLIAMENTARY ASSOCIATION**

REPORT OF CANADIAN DELEGATION TO THE ORGANIZATION FOR
SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY
ASSEMBLY FROM OCTOBER 13 TO 15, 1999

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Canada-Europe Parliamentary Association, OSCE, to the Organization for Security and Co-operation in Europe Parliamentary Assembly, OSC PA, second parliamentary conference: "Subregional Economic Cooperation Processes in Europe Faced with the New Challenges" held in Nantes, France, from October 13 to 15, 1999, entitled "The Nantes Document."

[Translation]

**CANADA-FRANCE
INTER-PARLIAMENTARY ASSOCIATION**

REPORT OF CANADIAN GROUP ON 29TH ANNUAL MEETING FROM
SEPTEMBER 8 TO 15, 1999 TABLED

Hon. Gérald-A. Beaudoin: Honourable senators, I have the honour to table, in both official languages, the report of the 29th annual meeting of the Canadian group of the Canada-France Inter-Parliamentary Association, held from September 8 to September 15, 1999 in Montreal, Laval, Ottawa, Vancouver and Victoria.

[English]

INTER-PARLIAMENTARY UNION

REPORT OF CANADIAN GROUP ON 102ND INTER-PARLIAMENTARY
CONFERENCE HELD IN BERLIN, GERMANY—NOTICE OF INQUIRY

Hon. Sheila Finestone: Honourable senators, I give notice that on the second day of the next sitting, February 8, 2000, I will call the attention of the Senate to the report of the Canadian Group of the Inter-Parliamentary Union on the 102nd Inter-Parliamentary Conference, held in Berlin from October 9 to 16, 1999.

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

PLIGHT OF WESTERN GRAIN FARMERS—
RESPONSE TO REPORT OF HOUSE OF COMMONS COMMITTEE

Hon. Leonard J. Gustafson: Honourable senators, my question is for the Leader of the Government in the Senate. I was most disappointed to read this morning in the *National Post* that the farming crisis will not get the Prime Minister's attention until after the holidays. I have been asking questions on this topic for a year and a half. The premiers of the provinces and, even now, Dennis Mills — and I give him credit for it — are indicating that they will bring this to the attention of those living in the City of Toronto by holding a benefit day.

The House of Commons Committee on Agriculture was out on the Prairies, and I attended two of the approximately eight meetings that they held. They did an excellent job. The House of Commons committee admitted that there are serious farm crisis problems and that the AIDA program is not working.

Has that committee yet made a presentation to the Prime Minister and to the cabinet? We are approaching the holiday season and this house will probably adjourn this evening. I understand the House of Commons may not resume until February 7. This matter cannot wait. This is a very serious situation. Has the committee made recommendations to the Prime Minister and to the cabinet as a result of their findings in the Prairies?

• (1440)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I agree with the honourable senator that the committee of the House of Commons did some good work in the Prairies. They returned with some very strong views that have been communicated to the Prime Minister, to the Minister of Agriculture, and to cabinet colleagues.

The Prime Minister has had an opportunity to speak to his colleagues with respect to the committee's trip to the Prairies, and is very much seized with this problem. Even though there may not be, as the article indicated, a formal first ministers meeting before Christmas, one cannot assume that the Prime Minister will, in any way, put the problem out of mind.

Senator Gustafson: Honourable senators, one wonders how urgent this situation would have to get before the Prime Minister would give it his attention. Did the Prime Minister meet with the committee?

I was parliamentary secretary to Prime Minister Mulroney, and it did not take that much to get people who had a serious problem a meeting with the Prime Minister. That committee did a wonderful job, and I was there to see it. It admitted that the AIDA program did not work, that there had to be redirection in this whole area of agriculture, and that the situation constituted a most serious national problem. I cannot understand why that committee cannot get a meeting with the Prime Minister.

Senator Lynch-Staunton: What golf course is he on? That is what we have to find out.

Senator Boudreau: Honourable senators, I am not aware of what meetings may have taken place between the Prime Minister members of that committee. I am sure that the members of the committee have indicated their views, both privately and in groups, to the Prime Minister, to the Minister of Agriculture, and to others. As to what arrangements will be made with respect to a formal meeting, I am not aware at the moment. I am sure the Prime Minister is aware of their views and will remain seized of the problem over the next number of weeks and months, even though there may not be a formal meeting of first ministers.

PLIGHT OF WESTERN GRAIN FARMERS

Hon. David Tkachuk: Honourable senators, I have a supplementary question on this issue. I think if David Milgaard's mother was trying to meet this Prime Minister rather than the former one, David Milgaard would still be rotting in jail.

Some Hon. Senators: Oh, oh!

Senator Tkachuk: Well, it is time to get a little rough around here!

Senator Graham: Be sensible. Ask a question.

Senator Tkachuk: I am being sensible. We on this side of the floor have been very patient. We have asked these questions for a year and a half now. It is not as though we raised this issue just yesterday. Senator Gustafson has asked these questions. Senator Andreychuk has asked these questions. I have asked these questions. Even senators on the opposite side of the house, such as Senator Sparrow, have asked them. We have returned this issue over and over, and the only response we ever get is, "We will see. We may have a bad program." Everyone in the country knows it is bad. All we get is procrastination, while people on the Prairies will not have the kind of Christmas that Mr. Chrétien will have this year.

Will the Prime Minister be taking a holiday as well from the financial loans and grants to his own riding over the Christmas holidays, or will the financial tap remain on there, while it is turned off on the Prairies?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the Prime Minister will remain seized of all of the problems of the country, as there is very little escape for him, regardless of the time of year.

Nothing I say is meant to diminish the serious nature of the situation in the farming communities, particularly on the Prairies. However, I would remind honourable senators that this government has committed significant funding. Admittedly, the program, as we have said in debate here in this place, is not working the way everyone would like. There was a commitment to review the program and to ensure that the money would get to the farmers more quickly. In addition, since I arrived, another \$170 million has been committed to the program. Premier Romanow, who is so concerned about additional assistance, chose not to match that and make a similar

commitment, even though the agreement for additional funding requires a commitment by the province.

I am not sure, but I believe Premier Romanow may have introduced a budget just in the last few days. In any event, there does not seem to be any significant commitment of new moneys from the provincial government. Their solution is simply to ask for more money from the federal government. This is a crisis big enough for everyone. I think that the provincial government, Mr. Romanow and others, have to come to the table on this matter.

Mr. Romanow has spoken for a number of years now about his surpluses — one surplus after another. He is very proud of that, and he should be. However, if he wants to raise a concern on this matter, he should be prepared to come to the table as well.

PLIGHT OF WESTERN GRAIN FARMERS—
REQUEST FOR RESPONSE BY PRIME MINISTER

Hon. A. Raynell Andreychuk: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate.

I am not speaking in defence of Premier Romanow, who will have to answer to the citizens about the agriculture issue directly, but I can say that there is no point in putting more money into an AIDA program which has poor reception in Saskatchewan. That money has a direct benefit elsewhere, if it has any benefit, but when a program does not fit the farmers of Saskatchewan, when they cannot take up the program because they do not meet the criteria, what is the point of putting in more money, either federally or provincially? I would say Premier Romanow has been prudent in not putting more money into a bad program.

The government leader's answer, therefore, does not get the government off the hook.

What we need in Saskatchewan is a clear statement from the Prime Minister, first, that he cares about this issue. It will go a long way to tell the people of Saskatchewan that Canada has Saskatchewan's interests in mind. Second, we need a clear statement that something will be done.

So far, we have heard such sentiment from the ministers and from members of Parliament, but the Prime Minister has certainly not made it one of his top issues. If the government leader is correct about what the Prime Minister will do later, then the best thing he could do this Christmas season would be to give us a sign.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I would disagree slightly with the honourable senator's generous approach to the Premier of Saskatchewan. I am not an expert on the program, but I am informed that the provinces were involved in creating these criteria. There was a process and it is a joint program. Admittedly, the program is not functioning properly. We have had discussions of that nature here and in other places. The program is not functioning as effectively as it should, and the Minister of Agriculture has said that the deficiencies in the program should be reviewed and addressed.

It seems to me that that still leaves the Premier of Saskatchewan in a rather untenable position, insisting that the solution to the problem is having the federal government commit funding, when he is in charge of a government which has run surpluses for longer than the federal government has.

Senator Tkachuk: A coalition government!

Senator Boudreau: I do not have the statistics now, but I remember reading that the cuts in assistance to agriculture by the Government of Saskatchewan have been substantial. They were something in the order of 60 per cent to 70 per cent, over 10 years. I think he has an obligation at least to say, "I am prepared to commit funding." The federal government committed \$170 million to the program. If it had been a matching program, they could have said, "We will not commit this \$170 million, unless Premier Romanow matches it." That would have been consistent with the joint program. They did not say that. Premier Romanow did not match it; nor did he offer other funding of which I am aware.

• (1450)

Senator Andreychuk: Honourable senators, some examination of the issue in Saskatchewan by all parties is required. In saying that, I am not excusing the past. As my mother would say, two wrongs do not make a right. If Premier Romanow is not doing the right thing, or has not done the right thing, that is no excuse for the Prime Minister. The Prime Minister has a responsibility for the entire country. We need a signal from the Prime Minister, and from no one else, that Saskatchewan issues are important and necessary and that he is dealing with them. That much now would go a long way to easing the plight of people in Saskatchewan whose future is uncertain.

Senator Boudreau: Honourable senators, I appreciate the concern raised by Senator Andreychuk. I am confident that this problem for Prairie farmers is a matter of concern to the Prime Minister. As I have in the past, I will certainly make both he and the Minister of Agriculture aware of the discussions that have taken place here.

[Translation]

INTERGOVERNMENTAL AFFAIRS

ONTARIO—REGIONAL RESTRUCTURING LEGISLATION— LEGAL PROCESS REQUIRED TO DECLARE OTTAWA OFFICIALLY BILINGUAL

Hon. Jean-Robert Gauthier: Honourable senators, yesterday, the Ottawa municipal council debated and adopted a motion asking the Province of Ontario to designate as officially bilingual the City of Ottawa that will be created next year. According to an article published in *Le Droit*, today, the new city will not have the right to declare itself bilingual. In a 1986 decision, the Ontario Superior Court ruled that the City of Kapuskasing had neither the right nor the authority to declare itself officially bilingual. This is yet another problem!

On the one hand, there is no provision in this regard in Bill 25 authorizing the restructuring of the new City of Ottawa. On the

other hand, the province rejected a recommendation made by Mr. Shortliffe, which begins like this:

I recommend that the enabling statute establish and designate the City of Ottawa as officially bilingual, in French and in English.

It would appear that the province's response that the new council to be elected in November 2000 will have the power to determine the linguistic status of the new City of Ottawa. However, the city does not have the authority to declare itself officially bilingual and it will therefore be up to the province to decide whether the new city will be officially bilingual.

Can the minister tell us if the Premier of Ontario is playing games regarding this issue, knowing full well that the new City of Ottawa cannot declare itself officially bilingual, with equal rights for English and French? Can the minister assure this house that he will try to get clarification from legal advisors regarding this issue, so as to put an end to the uncertainty and confusion generated by Mr. Harris' decision?

[English]

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the issue raised by the Honourable Senator Gauthier was drawn to my attention earlier in the day. I was able to seek some advice with respect to it. The new municipality, as with all municipalities in the province and, indeed, in the country, is legally a creature of the provincial government and falls under provincial law. It exercises that authority within constitutional jurisdiction. That authority is given to it in the form of provincial legislation.

To the best of my knowledge and information, the new municipality of Ottawa, indeed, any municipality in the Province of Ontario, would not have the jurisdiction or authority under legislation governing municipalities to declare itself bilingual. There is legislation in Ontario dealing with the provision of French-language services which allows a municipality to deliver certain services through bylaw. In fact, it may decide that services may be delivered in two languages in one case or another. However, that does not translate into an ability to declare itself officially a bilingual city. I am told that that jurisdiction remains with the Province of Ontario.

The old City of Ottawa, if I can call it that, acted under this legislation and through bylaws to provide bilingual services. I am told those bilingual services will remain in place until a new bylaw might change that. To determine the new City of Ottawa to be officially bilingual is an authority resting solely with the Province of Ontario.

Hon. Serge Joyal: Honourable senators, my question is for the Leader of the Government on the same issue. When I had the opportunity to address the chamber earlier this week, our colleague Senator Grafstein raised the possibility that the federal government could use either its jurisdiction over the National Capital Region or the disallowance power. I was of the opinion that the second suggestion was not one that would be welcome as a first choice.

Yesterday, the Minister of Intergovernmental Affairs said:

We will consider what constitutional means we have in our own jurisdiction to help the situation under the circumstances.

Today, *The Toronto Star* reported that some constitutional experts think that the federal government might have in mind a 1960s Supreme Court of Canada decision giving the federal government powers to legislate on issues affecting the national capital. Will the Leader of the Government in the Senate consult with the Minister of Justice and Attorney General of Canada to see whether, under that decision of the Supreme Court of Canada, the federal government has the capacity to intervene under its general power to legislate on issues affecting national issues, including the national capital, to declare the new City of Ottawa bilingual?

Senator Boudreau: I am sure that all honourable senators would prefer as a resolution to this situation a clear movement by the Province of Ontario to declare the capital city officially bilingual.

The government has indicated that it is reviewing possible options. No decision has been made at this point with respect to those options. One still hopes that Premier Harris and his government will move in an appropriate way. Failing that, I am sure I can pass on the request of the Honourable Senator Joyal and have the appropriate minister review that possibility as well, if, in fact, it is not already under review.

[Translation]

Hon. Gerald J. Comeau: Honourable senators, the senator asked the very question I had in mind. Bilingual city status means a bit more than bilingual services in Ottawa. Ottawa, our nation's capital, must send a clear message throughout the country by being declared bilingual. I wish to emphasize that bilingual city status means more than obtaining services in French.

[English]

• (1500)

Senator Boudreau: I thank the honourable senator for that comment. Indeed, I was attempting to make the distinction that while there may be legislation in place that may allow a municipality to deliver bilingual services here or there, I think the view of all honourable senators is that we would not regard that as being an official bilingual status for a city. In that respect, the municipality has no authority.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. I asked Senator Joyal about the disallowance power. He did advise, and I have since discovered, that the disallowance power was utilized regularly until about four decades ago. I understand that it has fallen into disrepute. There are some constitutional views on the matter, but it is still in the Constitution.

Would the Leader of the Government in the Senate also seek advice from the Attorney General of Canada as to whether, *in extremis*, which many of us consider this situation to be, the disallowance power would be adopted for legislation we feel is inconsistent with the 21st century and Canada?

Senator Boudreau: Honourable senators, I am sure that the Attorney General is now reviewing all of the options possible in terms of response. None are the preferred option. The preferred option is to have the government and the Premier of Ontario act. I will ensure that this option is before the Attorney General as well.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, in the course of six years in the Senate and 30 years in the House of Commons, I think that I have made my position on what Canada really is sufficiently clear.

A country has one capital. Some call it the national capital, but I call it the federal capital because it is a federal institution. The national capital must reflect the country's history and diversity; in it, Senator Hays from Alberta, Senator Prud'homme and all the other senators must feel at ease.

I take a different approach. I am going to do everything I can to depoliticize the issue: I am going to speak to a group in the Legislature of Ontario on Friday, January 14, in the very heart of the provincial Parliament.

[English]

All honourable senators should join together, some going the judicial route and others using persuasion. In the end, we should make Canadians understand that we are not asking that any city be bilingual. That is another debate.

We should make it clear — and I should like the minister to comment briefly — that there is a difference between the debate concerning “la capitale fédérale” and all of the other issues. That is a completely different debate.

Senator Boudreau: Honourable senators, I would say to the honourable senator, as I have said on at least one previous occasion, that his very eloquent words on the subject are words with which I associate myself.

Given the comments on this topic in this place, a number of things are clear. First, honourable senators regard this as an extremely serious, fundamental issue for our country. Second, it is not a partisan issue. Senators from both sides of the floor have spoken to the issue, and I think we have demonstrated clearly that it is not a partisan issue. Third, this issue is peculiar to this city as the national capital, or the federal capital as the senator puts it.

I have expressed and will continue to express my views on this subject. The views of honourable senators are well known and must be regarded seriously. I am confident that the government shares those views.

[Translation]

Hon. Gérard-A. Beaudoin: Honourable senators, my question is for the Leader of the Government in the Senate. If the Attorney General of Canada does a study of the bilingual status of Canada's capital, could we not also study section 16 of the Constitution, which has to do specifically with Canada's capital and the residual power of the Parliament of Canada, in section 91, under which certain powers are given and recognized in law for Canada's national capital region?

[English]

Senator Boudreau: Honourable senators, the Attorney General is acting in her role as chief lawyer to the Government of Canada. As any good lawyer would do, she reviews the options and presents a range of them to the government in the hopes that none are necessary and that the issue will be resolved in other ways.

I will undertake to provide the substance of the honourable senator's remarks to the Attorney General. I am confident that she will review all of the options available, as any conscientious lawyer would do on behalf of a client.

Hon. Sheila Finestone: Honourable senators, my question is for the Leader of the Government in the Senate. In reviewing the situation at hand and in looking at the obligation of the government to designate Ottawa as officially bilingual, would that designation include the full concept of equality under official status, including the equality of rights and privileges, not just language? The question revolves around the expression itself.

Senator Boudreau: Honourable senators, obviously the ramifications of full bilingual status will be elucidated in the judicial forum.

In addition to having a conversation with the Minister of Justice, my colleague Anne McLellan, I will undertake to leave with her the transcript of comments that have been made today and days previous on this topic and to ask if she could address them. I give that undertaking not only to the Honourable Senator Finestone but to the other honourable senators who addressed this topic as well.

TRANSPORT

HALIFAX INTERNATIONAL AIRPORT AUTHORITY AGREEMENT— OBLIGATION BY FEDERAL GOVERNMENT TO CONTROL ACIDITY OF SLATE

Hon. J. Michael Forrestall: Honourable senators, my question for the Leader of the Government in the Senate arises from concerns being expressed with respect to the arrangement between the Government of Canada and the pro tem Halifax International Airport Authority that will take over full control of the airport in a formal way sometime in February.

The concern arises over a problem that I thought had been resolved early on in the negotiations. My question deals with the actions that must be taken on a regular basis to control the acidic

nature of the slate on and around the airport. As the minister is well aware, the airport is high on a hill and drains into a number of watershed areas, and there are potential dangers associated with that situation.

• (1510)

Has the minister had any communication with officials of the new airport authority on this issue on which they believe the federal transport authority has reneged?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am aware of the situation of which the honourable senator speaks. These negotiations are conducted like all negotiations. There is give and take and much argument on both sides. Positions are advanced and compromises are made.

I spoke to officials of the airport authority shortly after they agreed to and signed the arrangement. I do not think any changes have been made in the agreement since they executed it.

Senator Forrestall: Honourable senators, is it then the case that the \$700,000 that was agreed upon to effect remedial action remains in place, that there is not, as has been alleged, an ongoing responsibility for damages that might occur in the future, and that this matter has been resolved? Is it correct that these arrangements are in place and, if anything is to happen it would happen between now and the middle of February when the takeover is to become effective?

Senator Boudreau: Honourable senators, to the best of my knowledge, the agreement covered matters such as ongoing environmental liability and responsibility for costs of operations, including operating costs connected with the environment.

The key point is that the agreement that the authority and the Department of Transport signed covered those matters and, to the best of my knowledge, it has not in any way changed since the authority signed it.

As in any negotiation, I am sure that the agreement does not reflect everything that the authority wanted and reflects somewhat more than the Department of Transport wanted to give. However, as far as I am aware, both parties signed a final agreement which addresses the issues the honourable senator raises. I do not know if it addresses them in the way that everyone would like, but it does address them. It was signed by both parties.

Senator Forrestall: Honourable senators, the minister is then not able to give assurance that the \$700,000 a year will be forthcoming to effect the remedial action necessary. I am sure that is where it now stands.

Senator Boudreau: Honourable senators, it has been three weeks or more since I had that brief meeting. To the best of my recollection, the sum of \$700,000 to address that problem is included in the agreement. I will check that to make sure, but I do recall very specifically that, when I met with the group, the agreement had been signed. It dealt with all the issues, and I do not believe anyone has changed the agreement since.

ABORIGINAL PEOPLES

REQUEST FOR RESPONSE TO COMMITTEE REPORT ON ABORIGINAL VETERANS

Hon. A. Raynell Andreychuk: Honourable senators, I commend the government for its timely response to the report of the Special Senate Committee on Security and Intelligence. We work long and hard on our reports in this place, and the government often looks to them for assistance in making public policy.

However, when can we expect to receive the response which we requested from the government on the report of the Committee on Aboriginal Peoples on aboriginal veterans? Senator Fairbairn was the Leader of the Government in the Senate at the time that report was presented. She assured us that the government was working on it and we would be receiving a response.

Many aboriginal veterans have died since that report was presented. The government's response is extremely important to those who survive. It is extremely important that we not ignore people who put their lives on the line for our safety and security. When will we receive a response from the government?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, this is the first time this issue has been brought to my attention. I will contact the minister responsible and attempt to get an answer to the honourable senator's question. I will probably obtain that answer over the recess and I should be able to respond when we resume.

The Hon. the Speaker: Honourable senators, I regret that the time for Question Period has expired.

ORDERS OF THE DAY

APPROPRIATION BILL NO. 3, 1999-2000

THIRD READING

Hon. Anne Cools moved the third reading of Bill C-21, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it was well that the appropriate time elapsed between the report stage and third reading stage of Bill C-21 for it afforded us the opportunity to take one last look at this bill. I would draw to the attention of honourable senators that the title of the bill is "An Act for the granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000".

On page 3 of the bill, clause 6 provides:

(1) An appropriation that is granted by this or any other Act and referred to in Schedule 2 may be charged after the end of the fiscal year that is after the fiscal year for which the appropriation is granted...

In other words, clause 6 of this bill attempts to provide authority for the expenditure of funds after March 31, 2000.

In *Beauchesne's Parliamentary Rules & Forms*, 6th Edition, at page 258, we find described the business of supply and ways and means. Under "Purpose", paragraph 933, we see:

The purpose of the Estimates is to present to Parliament the budgetary and non-budgetary expenditure proposals of the Government for the next fiscal year.

Honourable senators, clause 6 presents a problem with this bill. Is there an easy explanation for it which a member of our National Finance Committee, which examined the bill in detail, could share with us?

Hon. Anne C. Cools: Honourable senators, I thank the Honourable Senator Kinsella for his question. If I understood him correctly, his question deals with the fact that an appropriation seems to be straddling two years.

Had he signalled this during the committee hearings, we could have studied the matter in more detail. I believe that a similar situation occurred with our last supply bill and that Senator Bolduc raised the issue at that time.

• (1520)

I believe the department's response was to the effect that the vote had been managed in one year, but that the completion of the expenditure would take place partially over and into another year. If we are talking about the same thing — and I believe they informed us at the time that this was not unusual — this practice was becoming a little more common because of the complexity and the size of these appropriations.

I hope that I have answered the honourable senator's question, but I am prepared to look into the matter in more detail. As I said, I missed part of the honourable senator's question.

Senator Kinsella: Honourable senators, this is the issue and this is the principle. If you look at page 30 of the bill, Schedule 2 is:

Based on the Supplementary Estimates (A) 1999-2000, the amount hereby granted is \$234,733,521, being the total of the amounts of the items in those Estimates as contained in this Schedule.

In addition, Schedule 2 refers to:

Sums granted to Her Majesty by this Act for the financial year ending March 31, 2000, that may be charged to that fiscal year and the following fiscal year ending March 31 and the purposes of which they are granted.

This applies mainly to the Canada Customs and Revenue Agency, but that situation raises the question as to whether or not a good practice is being contemplated. I do not wish to go the route of raising a point of order on this matter, but the National Finance Committee may wish to look into the matter of voting a supply that is to be expended on or before March 31, 2000.

Senator Cools: I would be prepared to commit to Senator Kinsella that our committee — and I can consult with the chairman, Senator Murray — look at this particular question and study it in greater detail. If it is a recurring phenomenon, we should get our heads around it and find out why it is happening. I take the criticism and the honourable senator's consideration with great seriousness, and I commit myself to follow through on the matter.

Honourable senators, in speaking to the second reading of Bill C-21 yesterday, I gave substantial detail about the contents of the bill. Senator Murray, as chairman of the National Finance Committee, joined in the debate and gave the chamber his thoughtful and detailed remarks.

I should like to say as well, with a bit of levity, a bit of seriousness, and with great appreciation and gratitude, that yesterday I had believed that consensus was high on this bill, that the Senate had given the matter serious study and that the Senate's consideration was properly satisfied. Therefore, as deputy chair of the committee, and representing the government's interests in the matter, I rose to my feet yesterday and I asked leave to bring forward by one day the third reading of this bill.

I am honoured to say, honourable senators, that fortunately for all of us, Senator Lynch-Staunton was alert and vigilant. He quickly said "no". He was absolutely right. I agree with him now, and were I not sponsoring the bill for the government, I would have supported him yesterday. It is his duty to keep the government on its toes, particularly in matters of this nature, and it was his duty, properly so, to compel that third reading be given today.

Honourable senators, this bill deserves proper consideration. I thank the Honourable Senator Lynch-Staunton again because he was doing his duty as Leader of the Opposition and performing his role in a manner we all respect. In addition he was performing his duty as a senator. That duty is especially important because our Constitution awards to the Senate a constitutional role in these supply bills, and this bill gives the authority to spend a kingly sum of money or, shall I say, a princely sum of money.

I thank honourable senators again and wish you all a Merry Christmas. I am grateful that we all will be paid.

Motion agreed to and bill read third time and passed.

INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 1999

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Gauthier, for the third reading of Bill S-3, to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I thank Senator Cools for that royal consent, which I appreciate very much.

Senator Andreychuk, yesterday, gave an excellent presentation on the concerns that have arisen on Bill S-3. Her comments are sufficient enough that mine will be very brief. At the risk of repeating some of her comments, it is only to emphasize what the debate was all about.

Honourable senators, it is highly unusual that a tax treaty bill would have taken so much time. I believe it is because we are now tending to go from the pure financial trade aspect of treaties to their human rights aspect. Hopefully, that is something which will be emphasized over the years.

The government only has itself to blame for our taking a special interest in this bill because its briefing book was just outstanding. The briefing book in support of the bill was one of the best, if not the best, I have yet to see. That briefing book gave the background of tax treaties. It explained the nature of each treaty, how each treaty was different from the others, and a background on each country affected. I wish to congratulate the authors of the book for having given such support to those who took an interest in the bill.

Honourable senators, we had a bit of sport with the Deputy Leader of the Government in our insistence that the bill go to the Foreign Affairs Committee and his insistence, quite rightly at the time, that it should go to the Banking Committee because that has always been the custom. Therefore, the deputy leader generously allowed the bill to go to the two committees. That was somewhat amusing and confusing at the time, but, in retrospect, I believe it was a good exercise. The Banking Committee looked at the tax treaties themselves, and the Foreign Affairs Committee concentrated more on the countries affected — one in particular — and how Canada, in its foreign policy, considered human rights in its determination of relations with certain countries.

I feel that these bills should go more to the Foreign Affairs Committee than to the Banking Committee because more and more the discussion on tax treaties will be on the countries themselves rather than on the nature of the treaties. The treaties are all fairly similar. They are meant to avoid double taxation and tax avoidance.

• (1530)

The fundamental question, therefore, was: What effect does our assessment of a country's human rights record have on our foreign policy? That is really what we were trying to determine in singling out Uzbekistan as one country with a record that is pretty shabby. I will not repeat what I said on second reading, but it is not a country that I would like to trade with, even less to visit, under the present circumstances. The answer that we were given is not a very satisfactory one — at least to me.

One of the witnesses before the Foreign Affairs Committee was the Director, Human Rights, Humanitarian Affairs and International Women's Equality, Department of Foreign Affairs and International Trade. Her answer was as follows:

From a Canadian perspective, Canada is not a large enough partner on its own to coerce change in a country's human rights practices through unilateral sanctions. Even when sanctions are multilateral and well enforced, they are not always particularly effective.

She also said that, to date, Canada has only adopted sanctions endorsed by the United Nations. There is a lot of realism in that comment, but there is also, I think, an abandonment of principle.

Whether a country is small and its influence marginal — which is not the case for Canada — if it has certain principles, it should not be afraid to forward them and to act upon them. That is what we were trying to get in front of the committee and in front of the Foreign Affairs officials.

Senator Taylor yesterday asked whether we should confuse human rights with trade. Many people share his belief that trade, eventually, has an impact on the human rights record of a country. I disagree. This is a philosophical argument that we need not get into today. Some people feel that engagement is the key. I feel that isolation and boycotting might have more impact. Again, though, that is highly theoretical and hypothetical at this stage. We just want to stress, as Senator Andreychuk did yesterday, that, when we engage in similar treaties, a more than passing interest should be taken in the human rights record of that country with which we intend to have an agreement.

As Senator Grafstein pointed out at the Foreign Affairs Committee meeting, in the United States, every year, the state department prepares a thorough analysis of the human rights record of just about every country in the world. That analysis is submitted to the administration and to the Congress, for them to do with whatever they wish. At least they have that analysis in front of them. It is done not only by the state department and American officials all around the world, but with the support of Human Rights Watch, Amnesty International, and other NGOs whose credibility cannot be challenged. We do not appear to give

as much importance to that kind of work in this country. It is not a question of duplicating what is done elsewhere, but a question of using what is available to enforce the principles that we have tried to adopt regarding human rights, and to implement them.

As some honourable senators know, I did have amendments which I would have presented to remove the Uzbekistan treaty from the bill, but I think the point has been well made. I agree, after hearing Senator Andreychuk and others, that it would be unfair to single out a particular country at this stage and penalize it without really having more information on that country. However, now that our point has been made I hope it will be acted on so that, whenever the time comes for other tax treaties, the officials responsible will go beyond the traditional drafting process and take into consideration the human rights record of that country to determine whether we should or should not carry on with an agreement. Human rights should not be an exclusive consideration, but it should be given more than the passing consideration it is given now.

Hon. Jeremiah S. Grafstein: Will the honourable senator accept a brief question?

Senator Lynch-Staunton: Certainly.

Senator Grafstein: I agree in principle with everything the honourable senator said about the disconnection between government policy and human rights violations, and how one can link those in a useful way to bring some moral suasion on an offending state. Has the honourable senator given any consideration, for instance, to passing a resolution of this chamber telling the Canadian delegation to the OSCE that the Senate of Canada is unhappy with the human rights record of a particular country, in this instance Uzbekistan, and instructing the delegation to take the concerns to the OSCE for debate there? In that small way, possibly his concerns, which I share, could be brought to an international forum where there might be some moral suasion, and the opportunity to bring onside other states that share those particular views.

Senator Lynch-Staunton: Honourable senators, I thank Senator Grafstein for that excellent suggestion. It had not occurred to me, but I will be happy to follow through on it.

[Translation]

Hon. Céline Hervieux-Payette: Honourable senators, at this third reading stage, I would like to make a comment, if I may, on what the Leader of the Opposition and my colleague Senator Andreychuk have said. We do not disagree on the issue of the principle of human rights; the lack of agreement is, instead, on the means for advancing human rights. In my speech on third reading I referred to the actions undertaken by CIDA to facilitate learning about respecting human rights, application of the rule of law, and the encouragement of progress in Uzbekistan. Senator Taylor commented that what should be done instead was to gauge progress, to determine whether the country is advancing in the area of human rights or regressing, before any steps are taken. At any rate, the learning process for this new democracy is very difficult.

Under these circumstances, Bill S-3 is in the general interest of Canada and of the populations that will benefit from trade. It will improve the condition of the people of these countries and at the same time will facilitate the advancement of human rights. When the fundamental rights and the survival of individuals are protected, it is far easier to ensure that those rights are respected. I therefore move passage of Bill S-3.

[English]

Motion agreed to and bill read third time and passed.

NISGA'A FINAL AGREEMENT BILL

SECOND READING—DEBATE ADJOURNED

Hon. Jack Austin moved the second reading of Bill C-9, to give effect to the Nisga'a Final Agreement.

He said: Honourable senators, no legislation the effect of which is to alter the distribution of rights, powers, privileges, and responsibilities, or the appearance of such, or long-standing practice or customs with respect to those matters amongst peoples and communities, is likely to see ease of passage. So it has been with the legislation before us now. Bill C-9, the Nisga'a Final Agreement Bill, is a bill which has come to this last legislative phase in the Senate from a process which has been long, over 100 years, and oft-times tumultuous, disputatious and divisive, until, but hopefully not much beyond, this day.

• (1540)

As one of the senators in the chamber who represents a region of Canada famously known as British Columbia, it gives me great pride and pleasure to sponsor the introduction and recommend the passage of Bill C-9. In this I am supported especially by my fellow senators from British Columbia, Senators Perrault and Fitzpatrick on this side of the chamber; but I hope also in good time by British Columbia senators on the opposite side of this chamber. Of course, I seek the support and endorsement of all honourable senators from every region of Canada.

Bill C-9 is the first modern aboriginal treaty of its kind in British Columbia. While this legislation specifically addresses the Nisga'a people only, I and my colleagues are convinced that, in a broadly based way, Bill C-9 will encourage the process of reconciliation of the many aboriginal peoples in other communities that make up British Columbian society. Bill C-9 may not be a template, that is, a structure for all agreements with the diverse aboriginal communities, and there will no doubt be many variations as the product of future negotiations. We believe that Bill C-9 offers what is possible and will increase the momentum to negotiate, which is critical to the social stability and economic progress that all British Columbians seek.

The bill before us is an historic achievement. It represents the best about Canada and Canadians, namely, our willingness to

listen, to seek consensus, to accept diversity, to find solutions and to develop compromises. This bill, which would give effect to the Nisga'a Final Agreement, marks another milestone in the negotiation of modern treaties in this country.

Beginning with the James Bay and Northern Quebec Agreement of the mid-1970s, and the more recent Inuvialuit, Nunavut and Yukon agreements, this chamber has had the privilege to review legislation that brings Canadians together, that recognizes the place of aboriginal people within the fabric of Canada's economy and society, and develops a new and more positive relationship between governments and aboriginal peoples.

Honourable senators, the Nisga'a Final Agreement and this implementing legislation can be included under that umbrella and history of modern treaty settlements. Our role is to consider whether this legislation accurately reflects the final agreement, as negotiated by the three negotiating parties, and whether the bill deserves to be passed into law. I firmly believe that this bill and the accompanying treaty serves the best interests of Canadians, operates within Canada's Constitution and legal framework, and that it should be passed into law.

Before moving to some of the substantive issues, I should like to give honourable senators a description of who the Nisga'a people are, where they live and how their land claims agreement and the bill giving it effect arrived here for the consideration of this chamber. The Nisga'a live along the Nass River in a relatively remote area of northwestern British Columbia, 100 kilometres north of Terrace and Prince Rupert. Other than the 2,500 Nisga'a who live in four villages along the river and its mouth, only approximately 125 other permanent residents occupy the 24,000 square kilometres of this valley. The only organized communities in the Nass Valley are Nisga'a communities.

The Nisga'a who live in the Nass Valley are one cultural group among the northwest coast aboriginal peoples. They have a complex culture which is based on the rich resources of the sea. Historically, like other northwest coast people, the Nisga'a were great artists, builders and crafts people. Their art still graces the exteriors and interiors of many of the buildings in their villages.

Salmon and the other resources of the Nass provided both food and the raw materials for Nisga'a architectural, artistic and social achievement. Here on the banks of the Ottawa River, Nisga'a artistic and cultural achievements are on view in the Grand Hall of the Museum of Civilization and in the recently mounted "Common Bowl" exhibit. They can also be found in many of the world's museums.

Today, about 2,500 of the 5,500 Nisga'a live in four villages: Kincolith, Greenville, Canyon City and New Aiyansh. Most other Nisga'a live in Terrace, Prince Rupert or Vancouver. Nisga'a houses have modern housing and infrastructure. The schools and community buildings are in constant use to host Nisga'a social, cultural and ceremonial activities.

Although some Nisga'a share the difficulties common to aboriginal communities, such as unemployment and family breakdown, the Nisga'a have worked hard to improve those circumstances. High value is placed on schooling and post-secondary education. The Nisga'a operate their own provincial school district, School District No. 92. It offers kindergarten to grade 12 to both Nisga'a and other residents of the Nass Valley. One seat on the elected school board is reserved for a non-Nisga'a resident. The Nisga'a also operate a post-secondary college in connection with the University of British Columbia. It offers degree programs, life skills training and cultural language programs. They also operate their own health board and, again, provide for non-Nisga'a representation.

They have taken up every available opportunity to take over education, health care, social and family services and other government programs, seeking wherever they could to strengthen their families and community. They have also worked cooperatively with their neighbours. They participate in regional district government where Nisga'a elder Harry Nyce sits on the board.

The Nisga'a have pursued a settlement of what they describe as the land question since at least 1887 when, as honourable senators have heard, Nisga'a chiefs first travelled to the legislature in British Columbia to seek recognition of aboriginal title, a treaty settlement and a measure of self-government. Their trip to Victoria was unsuccessful.

In 1890, they established their first land committee. In 1913, that committee sent a petition to the Privy Council in England seeking to resolve the land question. Again, they were unsuccessful.

From the 1920s to the 1950s, the Nisga'a and other nations' efforts to have their rights recognized and practise their culture were repressed. Legislation outlawed traditional practices such as the potlatch, and made it illegal to raise money to advance land and other legal claims. Following repeal of this legislation in 1955, the Nisga'a re-established their land committee. Under the leadership of Mr. Frank Calder, the tribal council took the land question to the courts. This was a bold decision and a mark of the Nisga'a's commitment to seeking a resolution of their rights.

Many other First Nations were concerned that this court case might be unsuccessful and, therefore, would destroy any hope that their rights would be recognized in the political process. In the face of unfavourable lower court decisions, the Nisga'a pursued their case to the Supreme Court of Canada.

In 1973, the Supreme Court issued the *Calder* decision. Although the court split evenly on whether the Nisga'a continued to hold aboriginal title, it recognized the possibility of aboriginal rights and title continuing to exist in Canada. This decision was a major factor in prompting the Trudeau government to adopt a policy of negotiating land claims where they had not already been settled in Canada.

Through their action and commitment, the Nisga'a have led, and continue to do so, the way towards the reconciliation of

aboriginal people and other Canadians within British Columbia. They are now at the threshold of putting that leadership into the implementation of this agreement. It is in our hands, after careful deliberation, to do our part to bring that reconciliation about.

We also have an opportunity to put this chamber squarely behind the principle that the treaty negotiation process in British Columbia is valid and necessary. Only through negotiation, compromise and vision can treaty settlements be reached that meet everyone's interests. Only with the full consent of the stakeholders can we progress.

The Nisga'a were one of the earliest groups to take up negotiations as a part of this new process. Negotiations commenced in 1976. However, without the participation of the Province of British Columbia, progress on issues related to land could not be made. The Mulroney government continued to press the negotiations and succeeded in 1990 in bringing the provincial government, headed by Premier William Vander Zalm, into the process. After that, the pace of negotiations began to pick up.

Five years after signing the 1990 framework agreement on how to proceed with negotiations, the Chrétien government, the Harcourt government and the Nisga'a signed an agreement in principle which set out the main elements of the agreement which is before us today. That agreement in principle received considerable public debate and legislative scrutiny in British Columbia. The principles agreed to in that document formed the content and structure of the final agreement negotiations.

• (1550)

Two and a half years later, in August 1998, the Chrétien government and the Glen Clark government initialled a final agreement. This was a great achievement and the culmination of over 100 years of perseverance by the Nisga'a. Not only did this process include the participation of four national governments — those of Trudeau, Clark, Mulroney and Chrétien — but also three different provincial governments. In addition, more than 500 public consultations and information meetings were held in British Columbia.

The Nisga'a treaty marks a milestone in Canada's long history of treaty making with First Nations in this country. This is Canada's first treaty to include self-government, a self-government which addresses the rights of the Nisga'a people within the Canadian legal framework and one which was negotiated with the rights of all Canadians in mind.

In this context, I would refer to a statement made in the House of Commons in second reading debate there on October 26, 1999, by the Honourable Robert D. Nault, Minister of Indian Affairs and Northern Development. He said:

The government believes that self-government is like other aboriginal rights recognized and affirmed by Section 35 of the Constitution of 1982. As the courts have suggested, these rights are best negotiated, not litigated and that is precisely what we have done.

I now want to outline how the Nisga'a government will operate, because I think the agreement demonstrates how effective and accountable aboriginal government can be negotiated and how practical and workable arrangements can be established.

The Nisga'a Final Agreement Act and the Nisga'a Final Agreement are, in part, intended to modernize Nisga'a government and to create a local government structure for the Nisga'a people which is democratic, accountable and effective. No longer will the Minister of Indian Affairs and Northern Development retain the ultimate authority to approve decisions that are properly local in nature. Significant limitations to Nisga'a self-governance under the Indian Act will no longer apply and the Nisga'a will be able to provide government which will be inclusive of their communities and all members of the Nisga'a nation.

I know our colleague opposite from Saskatchewan, Senator Tkachuk, in his Bill S-14, gave considerable thought to the subject of aboriginal governance. I think he and others will find that many of the powers available to the Nisga'a government are similar to those listed in the schedule to the former Bill S-14. The Nisga'a government will be a democratic government within the established Canadian model.

First, all adult Nisga'a men and women will be able to run for office and vote for their government representatives. In addition, elections must be held every five years and, consistent with the Nisga'a Constitution, elected officials must take an oath of office that they will "provide good, effective and accountable government." Nisga'a government shares other attributes of the democratic government. For example, it must provide conflict-of-interest guidelines and mechanisms to ensure financial accountability in a manner similar to other governments in Canada. That is accountability both to its own members and to the governments from which it will derive some of its funding.

The Nisga'a Constitution is central to the exercise of a democratic Nisga'a government. It will operate within and be subject to the Constitution of Canada. The treaty sets out specific requirements of the Nisga'a Constitution which must be met. These cannot be overturned by any future Nisga'a government.

The treaty also has provisions to protect the rights of other aboriginal persons and the rights of non-Nisga'a individuals who reside on Nisga'a lands. The Nisga'a Constitution must provide for the recognition and protection of the rights and freedoms of Nisga'a citizens and must provide the ability to challenge the validity of Nisga'a laws. It must also contain key features, such as mechanisms to provide rights to appeal administrative decisions and rights of access to information. Although the Nisga'a government will contain elements unique to the Nisga'a culture and heritage, it will be quite recognizable as a government similar to other governments in Canada. It can and will be held politically and legally accountable for the decisions it makes.

Nisga'a government is structured in two levels: Nisga'a Lisims government will be the central government, responsible for those things that touch all Nisga'a citizens such as language and

culture. Lisims government will also be primarily responsible for relations with other levels of government. The four Nisga'a village governments will make up the second tier of Nisga'a government. These bodies will be responsible for local matters of the four Nisga'a communities of New Aiyansh, Gitwinksihlkw, Laxgalt'zap and Gingolx.

The Nisga'a treaty also takes into account Nisga'a people living off Nisga'a lands. The treaty establishes three urban locals in Terrace, Prince Rupert and Greater Vancouver. These locals do not have law-making authority but will participate in Nisga'a government by each electing a member to the Nisga'a Lisims government.

Let me now turn to the Nisga'a law-making authority. The only law-making powers the Nisga'a will have are those set out in the treaty. I must remind honourable senators that there are no exclusive Nisga'a law-making authorities. Federal and provincial laws will apply to Nisga'a lands concurrently with Nisga'a laws. This will be just like other jurisdictions in Canada where Canadians are subject to federal, provincial and municipal or regional laws simultaneously. In this type of model, rules of priority are necessary to set out what would happen in the case of conflicts or inconsistencies between two valid laws. The Nisga'a treaty contains rules of priority in each case where the Nisga'a government will have law-making authority.

In order for Nisga'a laws to be valid, they must be consistent with these rules of priority. They must meet a number of other requirements. First and foremost, they must be consistent with the Constitution of Canada, including the Charter of Rights and Freedoms. They also have to be consistent with the Nisga'a Constitution itself.

I would now like to expand a bit on the relationship between validly enacted Nisga'a laws and the laws of Canada and British Columbia. Honourable senators, there are only a few limited areas where the Nisga'a government would have principle authority. These are areas that are internal, integral and essential to the Nisga'a and the Nisga'a government. Specifically, the only Nisga'a laws that would fit that category are those that are related to the administration of Nisga'a government, to the management of Nisga'a lands and assets, to Nisga'a citizenship, and to Nisga'a culture and language.

Honourable senators, I wish to make it clear that the authorities I have just mentioned relating to Nisga'a citizenship do not include the right to make laws concerning immigration, Canadian citizenship, registration as an Indian under the Indian Act, or to impose obligations on Canada or British Columbia to provide rights or benefits. The Nisga'a treaty makes this abundantly clear.

There will also be a second category of Nisga'a law-making authority which includes education, child and family services, adoption, Nisga'a fish and wildlife harvesting and forestry, but Nisga'a laws in that category will only be valid if they meet or exceed federal or provincial standards. For example, a Nisga'a law in the area of education would have to meet curriculum and teacher certification standards set out by the Province of British Columbia. That just makes sense.

Finally, there are areas where the interests of other Canadians could significantly and directly be affected by Nisga'a law but where the public interest could still be accommodated while providing some local authority. In this third category, federal and provincial laws would prevail over Nisga'a law. The areas where federal or provincial law would prevail include environmental assessment and protection, public order, peace and safety, health services, social services, buildings and public works, traffic and transportation, solemnization of marriage, fish and wildlife sales and the regulation of intoxicants.

There can be no doubt raised that the Nisga'a government will operate within Canada's legal framework, Canada's Constitution, Canada's laws and the Charter of Rights and Freedoms.

Honourable senators, the Nisga'a people have occupied the area of the Nass for centuries before the European colonists arrived. The evidence shows that they had a well-organized society which was prosperous and governed according to laws of social conduct and community obligations. The key achievement of this treaty is to reconcile in today's world the fact that the Nisga'a people have their own culture and system of government within the culture and system of the majority population. As I have said earlier, this is a practical and workable arrangement.

Honourable senators, one of the major objectives for treaty negotiations in British Columbia is to establish certainty in connection with the rights of aboriginal peoples, those of the federal and provincial governments, and those of individual Canadians. The Nisga'a Final Agreement achieves this objective. It is a full and final definition of Nisga'a claims to aboriginal rights and title. Through this agreement, and as set out in Bill C-9, those rights will be known with certainty.

• (1600)

In future, we will all be able to use the final agreement for a precise description of Nisga'a rights. All of us will be able to use the final agreement because the treaty stipulates that it can be relied on not just by government and by the Nisga'a but by all other persons.

Achieving certainty is of critical importance to business and labour groups in British Columbia. Groups with interests as diverse as Canadian National Railways and the Canadian Labour Congress advised the standing committee of the other place that certainty was a core reason for their support for this treaty and treaty settlements in general. The Mayor of the City of Terrace, Jack Talstra, said to the standing committee:

We wish our Nisga'a neighbours well. Let us move forward with this new treaty.

Honourable senators, simply put, certainty of aboriginal rights is essential to the promise of a strong economic future for British Columbia.

In future, the Nisga'a will be able to develop Nisga'a lands. Businesses that are interested in economic development

opportunities on Nisga'a lands will know from the final agreement that the Nisga'a own these lands.

Outside Nisga'a land, the Province of British Columbia will be able to develop land and know precisely the scope of Nisga'a rights and the procedures to follow to do so. Businesses that are interested in development opportunities outside Nisga'a land will similarly benefit from knowing the province's authority to develop these lands.

That is what is meant in the preamble of the final agreement when it says that the final agreement is intended to provide certainty with respect to the ownership and use of lands and resources. Those who oppose the Nisga'a Final Agreement risk losing for all of us this opportunity. I say to my fellow British Columbians that such a risk is not justifiable.

One 1991 report issued by Price Waterhouse concluded that, in that year, unresolved land claims in British Columbia cost the province \$1 billion in investment and 1,500 jobs in forestry and mining alone. The cost to our aboriginal peoples is also very high because of the constraints on their own economic opportunities.

In exchange for full and final settlement of all Nisga'a claims in respect of aboriginal rights and title, the Nisga'a will receive a settlement package which includes \$196.1 million paid over 15 years and a land transfer of approximately 2,000 square kilometres in the Nass Valley area, which includes surface and subsurface rights and also a right to take a share of the Nass River salmon stocks and Nass area wildlife harvests.

The total one-time cost of the treaty, including land value, implementation and other related costs, is \$478.1 million in 1999 dollars. Canada's share is \$225 million. However, let us not share the misrepresentations of some that what is involved is a cash transfer of over \$500 million. That is not the case at all.

Who can fully calculate the value to the Nisga'a of having a strong land lease? The Nisga'a believe that, with this agreement, they have the opportunity, through their own efforts and skills, to become economically self-reliant. A prosperous Nisga'a would have an enormous multiplier effect on the whole economy of northwest British Columbia, as the Mayor of Terrace knows.

Some in British Columbia believe it would be better to leave it to the courts to deal with aboriginal claims. This is a false belief. It would be costly and time-consuming to use the courts to examine each claim of an aboriginal right or title for each location in British Columbia.

In the *Delgamuukw* case, the Supreme Court of Canada commented on the disadvantages of litigation and encouraged negotiation as the best way to resolve these issues. Some of you might remember that the *Delgamuukw* case took more than 10 years to go through the courts, and in the end the Supreme Court of Canada ordered a new trial. There is still uncertainty as to the aboriginal rights of the Gitskan and Wet'suwet'en who were involved in that case. The certainty achieved in the Nisga'a treaty clearly demonstrates the advantages of negotiating these issues instead of going to court.

To achieve this objective of a practical and workable alternative, the Nisga'a Final Agreement sets out arrangements that provide certainty in the Nass Valley as to ownership and use of lands and resources. Very importantly, it does so within the Canadian legal framework.

The Nisga'a Final Agreement negotiations were not an attempt to define Nisga'a rights but, instead, to address uncertainty by exhaustively setting out and defining, with as much clarity and precision as possible, all the section 35 rights which the Nisga'a can exercise after the Nisga'a Final Agreement is concluded.

In the past, Canada has achieved certainty through an exchange of undefined aboriginal rights for defined treaty rights using the language of "cede, release and surrender." Objections by First Nations to the surrender technique have been a fundamental obstacle to completing modern treaties.

The Nisga'a Final Agreement provides for a "modification of rights" approach. Using the modified aboriginal right approach, the Nisga'a aboriginal rights, including title, continue to exist, although only as modified, to have the attributes and geographic extent set out in the Nisga'a Final Agreement. This is accomplished through the agreement of all three parties and by the exercise of the legislative jurisdiction of the federal and provincial governments. As a result, whatever aboriginal rights the Nisga'a may have had at common law will be modified to become the rights set out in the Nisga'a Final Agreement. In this way, the certainty technique is based upon agreeing to rights rather than extinguishing them.

If, despite the final agreement and the Nisga'a Final Agreement Act, there is an aboriginal right other than or different in attributes from the Nisga'a nation's section 35 rights as set out in the Nisga'a Final Agreement, that right would be released as of the effective date. Through the modified aboriginal rights approach, the only section 35 rights that the Nisga'a nation would have are those set out in the final agreement.

Honourable senators, I believe that we can see the compromises, the accommodations, and the reconciliation of different views that permits the negotiation of modern, workable approaches to difficult issues. The fact that business, resource interests, local governments and labour organizations support the modified rights model demonstrates that those interests were heard and addressed at the negotiating table.

Many critics and opponents of the Nisga'a Final Agreement appear to be uninterested in the facts. Rather, they have used misrepresentations and half-truths to push emotional hot buttons in an attempt to create a negative and angry public backlash. Senators are familiar with events in the other place in which the Official Opposition, the Reform Party, sought this objective. I

believe that too much has happened in Canada and in British Columbia over the last 10 years both in recognition of the rights of aboriginals and tolerance of the differences among the many peoples of Canada. It is too late for the Reform Party's strategy to work.

Honourable senators, one of the vocal critics of this treaty is the Leader of the Official Opposition in British Columbia, Mr. Gordon Campbell. Mr. Campbell conceded in his submission to the standing committee in the other place that:

British Columbians want treaties that will reconcile the constitutionally protected rights of aboriginal peoples with the sovereignty of the Crown. They want to negotiate settlements because that is preferable to litigated settlements imposed by the courts.

Honourable senators, that is exactly what we have done.

Mr. Campbell charges that the Nisga'a Final Agreement Act creates a new order of government in Canada and, as such, is, in effect, a constitutional amendment requiring, among other matters, a referendum be submitted to the people of British Columbia under prevailing provincial law to obtain a majority vote of approval. He has caused litigation to be commenced to seek judicial intervention and interpretation.

It is the view of the parties to the agreement and also of constitutional experts who have appeared as witnesses in previous hearings that Mr. Campbell's charge has no constitutional base. Let me refer again to the Minister of Indian Affairs and Northern Development who, in speaking in the other place on October 26 last, said:

As significant as is the Nisga'a treaty, it is equally significant that it has been achieved within Canada's existing constitutional framework. It does not directly or indirectly change the constitution. Nor is a constitutional amendment necessary to bring the treaty into effect. The Nisga'a treaty is a practical arrangement that defines the rights the Nisga'a people will exercise under Section 35 of the Constitution Act, 1982. Although rights will be protected under Section 35, it does not mean they are absolute. The courts have confirmed that those rights may be infringed where proper justification exists.

• (1610)

Honourable senators, the Nisga'a treaty states:

This Agreement does not alter the Constitution of Canada including the distribution of powers between Canada and British Columbia.

In evidence given to the standing committee in the other place on November 23 last by Dean Peter Hogg and Professor Patrick Monahan of Osgoode Law School, Professor Monahan stated:

The Agreement and the ratifying legislation is valid and does not constitute an amendment to the Constitution of Canada...and the main reason I have reached that conclusion is based on the terms of section 35(1) and section 35(3) of the Constitution Act of 1982....It is not simply the agreements which existed in 1982 and the rights under those agreements that we constitutionally protected, but also rights acquired under future agreements. So essentially my view is that section 35(1) and 35(2) of the Constitution contemplate precisely the process that is occurring here, namely an agreement is reached between aboriginal people and the federal and/or provincial governments.

Further on, Professor Monahan says:

That does not mean that the agreements themselves become part of the Constitution of Canada, but what it does mean is that the rights are protected and any law, federal or provincial, that was inconsistent with the rights under the agreement would have to meet the test of justification which the courts have set for infringement of rights protected by section 35, and that was set in a case called Sparrow.

To summarize, honourable senators, nothing contained in Bill C-9 has any effect over the distribution of powers given to the federal and provincial governments by the Canadian Constitution. The legislative power remains unimpaired. No doubt this will be settled one day by a higher authority than even those to which I have been referring.

A further criticism of Bill C-9 is that it is based on race discrimination. For example, Dr. Keith Martin, Reform MP for Esquimalt—Juan de Fuca, in an article in *The Ottawa Citizen* of November 24, 1999, said:

We are creating animosity and division, much like what was seen in South Africa during the years of apartheid.

In the same article he says:

There must also be one law for all people.

However, Professor Bradford Morse of the Faculty of Law, University of Ottawa, said at the same hearings I mentioned previously:

The fundamental issue that many critics fail to grasp is that aboriginal rights are not recognized for a distinct group by virtue of their race, but rather as the United States Supreme Court has clearly and repeatedly indicated for at least 170 years, certain peoples were in possession of their own territories since time immemorial as independent nations with their own legal, cultural, religious, linguistic and political system...this is reflective of their difference as political entities, not as racial groups.

Honourable senators, the rights provided to the Nisga'a by section 35 of our Constitution are based on their prior presence in the Nass Valley, not because of their race, as some critics have suggested. This self-government model reflects rights based on prior presence and is carefully drafted to ensure that the rights and interests of other Canadians, particularly those who live in the immediate area, are fully addressed. All private property rights are fully protected. All existing property rights on Nisga'a lands will be replaced on equivalent or better terms. All federal and provincial laws will apply, including provincial laws which currently do not apply on Indian reserves. This means that there will be additional protections available for Nisga'a women, for example, that are not available under the existing Indian Act and Indian reserve system.

Negotiators for Canada and British Columbia held hundreds of consultation and public information meetings to ensure that the rights and interests of all British Columbians were understood and respected. The negotiations evolved from a less open style in early years to a very open style of consultation in later years. Therefore, there were ample consultation opportunities on all substantive issues. In fact, ultimately, this negotiation included the most extensive and effective consultation process in the history of treaties in Canada.

In his submission, Gordon Campbell also referred to a number of "equality concerns with respect to the Nisga'a treaty" suggesting that the rule of law will not be equally applied to all British Columbians and that British Columbians will not be treated equally within Canada. The argument that all British Columbians should have exactly the same rights is inconsistent with the accommodation of special rights for some groups within Canada's Constitution.

This view of equality would deny the Nisga'a any treaty rights, but also suggests that there should be no aboriginal rights. Additionally, this view of equality would deny any other special rights protected in our Constitution such as minority rights, educational rights and linguistic rights.

Honourable senators, the Nisga'a should not have to give up their culture and language to live in this great country. It is possible, in Canada, to be aboriginal and to be Canadian. Under the Nisga'a treaty, we allow the Nisga'a to be Nisga'a and to remain Canadians. This is much preferable to Mr. Campbell's misguided version of equality.

Time does not permit me to deal with many of the issues raised by this historic treaty where the right of self-government of an aboriginal people is for the first time the subject of a parliamentary endorsement under section 35. In many ways, the rights of non-Nisga'a living on Nisga'a lands are enhanced by the removal of the restrictions imposed by the Indian Act. In the area of taxation, the Nisga'a have agreed, in brief, that after a phase-out period the Nisga'a people will pay taxes the same way all other Canadians do. The Nisga'a will, as their economy develops, assume a higher and higher responsibility for their own funding. They look forward to freeing themselves from financial dependency.

Honourable senators, I look forward to the further examination with you of Bill C-9. I believe that, after we have given careful study to the bill, we will endorse it wholeheartedly.

I believe that Terry Glavin, a member of the Pacific Fisheries Resource Conservation Council in British Columbia, speaking on November 17 last in Prince George, summed the matter up well for his fellow British Columbians when he said:

I am confident in the knowledge that the overwhelming majority of British Columbians support the objective of concluding treaties with First Nations that are reasonable and fair and uphold the honour of the Crown.

Later in his remarks he said:

It's not a perfect treaty. It was negotiated by human beings. But in the belief that Parliament will soon give force and effect to the treaty between the Nisga'a nation and the Crown in Right of Canada, I will say that my country is about to do a fine thing. And it is a pretty good start.

By way of epilogue, honourable senators, it should be noted that a few senators present here today played a significant role in the Joint Committee of the Senate and the House of Commons on the Constitution in 1980-81 which held hearings and deliberations on what became the Canada Act and the Constitution Act, 1982. Those were historic days: the Charter of Rights, the patriation of the Constitution, and many other significant issues which, taken together, have changed the nature of Canada, very much for the better, in my opinion. As significant as any matter which was enacted at the time was section 35. A number of senators and MPs were much moved when the then justice minister, Jean Chrétien, under heavy pressure from the joint committee, agreed on behalf of the Trudeau government to put section 35 into the Constitution. In Bill C-9 we see one of the substantial results of our efforts at that time.

The joint committee was chaired by the late Senator Harry Hays and by a feisty MP from Quebec, the now feisty Senator Serge Joyal. I represented the government side in the Senate while the opposition side was led by former senator Duff Roblin. One of the permanent members from the other place whose attendance record was exemplary is now Senator Eymard Corbin. I apologize to anyone now in the Senate whom I have not mentioned who also sat on the joint committee as a permanent member.

In closing, I will observe that there is something valuable to be contributed to public policy by a Senate where some of its members have a perspective that spans nearly 20 years.

• (1620)

Hon. Gérard-A. Beaudoin: Honourable senators, I agree that this agreement — it is not a treaty — falls under the Constitution, under the Charter of Rights and under the Criminal Code. This is a great amount.

Only one point concerns me — and perhaps this question should be studied more deeply in the committee — namely, the

concurrent powers with paramountcy for the Nisga'a. That is unprecedented in the sense that there is a division of powers in Canadian federalism — federal powers and provincial powers. Sometimes the paramountcy is with the Parliament of Canada, and sometimes the paramountcy is in the hands of the provincial legislatures. This system works very well.

I am told — and correct me if I am wrong — that a few subjects that are concurrent with paramountcy are neither federal nor provincial, in which case it may be that there is a cloud somewhere in the agreement. If the agreement does not change the division of powers between Ottawa and the provinces, I am quite satisfied. Is that the case?

Senator Austin: I wish to thank Senator Beaudoin for that question. As I said in my address, a specific clause states that this agreement does not in any way affect the distribution of powers between Canada and the Province of British Columbia.

With respect to the rest of your remarks, section 35 of the Constitution Act, 1982, has intervened since the original distribution of powers in the British North America Act. Section 35 is the result of a constitutional process that has the agreement of this Parliament and a substantial number of the provinces, to echo a phrase of a Supreme Court decision with which you are familiar. Therefore, we have the concept of section 35 protecting the rights contained within this agreement. Those rights are given constitutional protection, but in no way does this affect the distribution of powers. We have a Constitution composed of federal and provincial agreement, which protects aboriginal rights once Parliament and the Province of British Columbia ratify the agreement by legislation.

Senator Beaudoin: I have absolutely no problem with section 35 because it gives collective rights to the aboriginal people in the Constitution of Canada. I am 100 per cent in favour of those rights because the aboriginals were here first.

My question relates only to paramountcy in concurrent powers. When this bill is studied by a Senate committee, I hope this question will be studied more adequately. I do not have any problem with the rest of the agreement.

Senator Austin: I look forward to that study.

The honourable senator raises an essential point. I believe that the Nisga'a Tribal Council will have paramountcy in some powers, particularly in the area of linguistic and cultural rights. However, they are still subject to the concept of reasonableness as laid out in the *Sparrow* case because the *Sparrow* case is part of our constitutional law.

Hon. Gerald J. Comeau: Honourable senators, I listened carefully to the honourable senator's speech, and one of my questions concerns the Nass River salmon allocation. The fishery is owned by the public and not by the Crown. It is a common property resource. However, there is a means by which the minister and the Crown can allocate fish, and that is through section 7 of the Fisheries Act. They can even create exclusive reserves of fish, which is what is being contemplated in the Nisga'a treaty. This must be done by a competent piece of legislation, as noted in section 7 of the act.

The treaty provides for an exclusive fishery, which will then be protected under section 35 of the Constitution. The result is that parliamentarians will relinquish their legislative power over the allocation of this common-property resource. For one of the first times in history, parliamentarians will relinquish a duty, constitutionally mandated, to protect a public resource. Was this contemplated by the negotiators, or have you been given any briefing on this subject?

Senator Austin: Honourable senators, I am not as well prepared as is Senator Comeau to examine at this moment the exact ramifications with respect to the fishery. I know that the Fisheries Act and regulations apply to harvests under this Nisga'a agreement. An annual fishing plan must be provided, and the Nisga'a have, as the Honourable Senator Comeau said, an agreement by right to a specific share of the fish harvest. I believe your question will be better answered during the course of committee discussions.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I have a question for Senator Austin. Section 35 of the Constitution Act, 1982, is one section beyond sections 1 to 34, which constitute the Charter of Rights and Freedoms. Is it correct to state that the Charter of Rights and Freedoms does not apply to section 35 but that under this treaty the Charter of Rights and Freedoms will apply? In effect, I believe the Charter applies under this agreement, which gives greater protection from a human rights analysis than something that is simply under section 35.

Senator Austin: What I am about to say should not be considered authoritative, but what you have outlined, Senator Kinsella, is also my understanding of the situation.

Senator Kinsella: Honourable senators, as we begin our debate on the principle of the bill, I wish to clarify the rights that Indian women have under Bill C-31, the amendment to the Indian Act that repealed paragraph 12(1)(b) of the old Indian Act. Some describe that as the "right of return." Is that right continued under the Nisga'a agreement, or is it lesser or greater protection for women who return to the Nisga'a community?

Senator Austin: Honourable senators, I cannot answer that question except in a general way by saying that as the Charter applies and the Charter bars discrimination, I believe that the rights of Nisga'a women have been elevated to the same rights that all women have in Canadian society.

On motion of Senator Kinsella, for Senator St. Germain, debate adjourned.

[Translation]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

[Senator Comeau]

RIDEAU HALL

December 16, 1999

Mr. Speaker:

I have the honour to inform you that the Right Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, in his capacity as Deputy Governor General, will proceed to the Senate Chamber today, the 16th day of December, 1999, at 5:00 p.m. for the purpose of giving Royal Assent to certain Bills.

Yours sincerely,

Judith A. LaRocque
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

[English]

The Hon. the Speaker: Honourable senators, you will have noted from my reading that the retiring Chief Justice will be attending this evening. This will be his last Royal Assent before he retires, and it will also, presumably, be the last Royal Assent of this millennium.

I hope that all honourable senators will be able to attend the reception for the Chief Justice at the conclusion of Royal Assent.

[Translation]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming the debate on the motion of the Honourable Senator Grafstein, seconded by the Honourable Senator Callbeck, for the second reading of the Bill S-5, An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate).—(*Honourable Senator Hays*).

Hon. Eymard G. Corbin: Honourable senators, Senator Grafstein knows that I do not have much enthusiasm for his bill. Nevertheless, I am grateful to him for making this suggestion to the Senate. If I have understood correctly, the purpose of Bill S-5 is to institutionalize poetry by creating the position of Parliamentary Poet Laureate.

My timetable did not afford me the time to prepare my reservations as I would have wished. But since Senator Grafstein has been urging me for the last 48 hours to speak before we adjourn for the holidays, so that the bill can be referred to a committee for consideration and the hearing of the witnesses it chooses, I will try today to accommodate him, but this will not necessarily be my last word.

He has had the time to prepare, to give the matter thought, and to seek and receive opinions. He has had months to do so. Now he wants the rare few in Parliament who live and breathe literature to race headlong into the waves of his enthusiasm. He must, however, know that the products of the intellectual process, the quantity of which he sometimes deplores, require time for research, reflection and writing. In the end, I will help my honourable colleague, because the clash of ideas is never a waste of time.

That having been said, I now learn that the debate will be adjourned after my remarks. As if by chance, but what a fortunate coincidence, on the weekend I was rereading *Edgar Allan Poe, sa vie et ses ouvrages*, written by Charles Baudelaire in 1852. I hold these two great poets, literary giants whom I have not abandoned over the years, in the greatest esteem. You should therefore know that I am biased.

I found this sentence written by Beaudelaire:

Alfred de Vigny wrote a book (*Stello*, 1832) to demonstrate that the place of poetry is not in a republic, an absolute monarchy or a constitutional monarchy...

And Beaudelaire added:

...and no one answered.

Stello defends a very particular point of view, which I share almost entirely. I do not have the time, for the reason mentioned at the beginning of my speech, to get into details. To be honest, and without claiming that *Stello* can be transposed *mutatis mutandis* from 1830 to the current situation of poetry, there is a fundamental consideration to keep in mind, at least from my point of view. To save time, I will summarize by asking a very rhetorical question: What in the world does poetry have to do with this place, this republic, this constitutional monarchy, this Parliament? In chapter XL of *Stello*, Dr. Noir, the key character in the story, answers the question when he gives his prescription, a first precept or advice to the narrator of the novel. He says:

To separate poetic life from political life.

And to achieve that:

Render therefore unto Caesar the things which are Caesar's, that is the right to be, every hour of every day, held in contempt on the street, deceived in the palace, fought against underhandedly, undermined for a long time, beaten promptly and expelled violently.

Here is Dr. Noir's second precept to the poet:

Alone and free, to accomplish one's mission. To follow the condition of one's self, free from the influence of Associations, however good. Because Solitude alone is the source of inspiration.

There is a lot more, but that is the essential.

The essential is the very nature of creative poetic work, and this cannot be compelled. A writer of verse, a rhymester paid by the verse yes, perhaps, but not a true poet, never! I cannot imagine that true poet could take on the yoke of the official word.

In fact, it seems to me that the question needs to be asked in another way. What sort of line divides language and power? I would say that it is something as slim as the guillotine blade that beheaded the poet André Chénier.

I would also say that it once took the form of the *Index librorum* or of the tribunal of Rome that condemned the poems of Baudelaire and cursed so many others. That will give hon. senators just a very small idea of what is involved, to emphasize that poetry owes no allegiance to Caesars, to popes, to emperors, to despots of any kind. And all honour to the poet for that. Today, the line between language and politics is as wide as the distance that separates a persecuted poet in exile from his native land.

Unfortunately, I did not have the time to read what my honourable friend Senator Kinsella had to say. I shall do so during the adjournment, after the holiday season. I do believe, however, from having heard his closing words the other day, that he is indulging in some out-of-date nostalgia. I will soon have a clearer idea, and if I have misinterpreted what he has said, I will be prepared to apologize.

• (1640)

In my opinion, Senator Grafstein's proposal smacks of musty Victorian attitudes, although I must apologize for saying so when we have that lovely bust adorning the front of this chamber, just above His Honour the Speaker's head.

What has happened to our ability to dream, our talent to explore? It is as if we Canadians still had one foot on either side of a yawning abyss, one as deep and vast as the ocean that separates us from our mother countries, torn between our past and the challenges of our future. Might grasping on to an empty practice or meaningless symbol not be one more manifestation of our national insecurity?

It is as if we lacked the maturity to do anything new. Are we so lacking? I thought, but perhaps I was deluding myself, that our democratic tradition was strong enough for us to shake off the fetters of old ways of doing and being. I am not speaking for the poets, I am expressing a profound conviction of mine.

On the motion of Senator Kinsella, on behalf of Senator Lynch-Staunton, the debate was adjourned.

[English]

IMMIGRATION ACT

BILL TO AMEND—SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Ghitter, seconded by the Honourable Senator Cohen, for the second reading of Bill S-8, to amend the Immigration Act.—(*Honourable Senator Hays*).

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would ask for leave to have this item stand in the name of the Honourable Senator Grafstein who intends to speak to it.

The Hon. the Speaker: Is it agreed, honourable senators, that this order stand in the name of the Honourable Senator Grafstein?

Hon. Senators: Agreed.

Order stands.

[Translation]

OFFICIAL LANGUAGES

SECOND REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Joint Committee on Official Languages (bilingual nature of Canada's Capital) presented in the Senate on December 14, 1999.—(*Honourable Senator Losier-Cool*).

Hon. Rose-Marie Losier-Cool: Honourable senators, I move that this report be adopted.

In so moving, I wish to quote the Right Honourable Pierre Elliott Trudeau, who said at the ceremony to proclaim the Constitution on April 17, 1982:

[English]

I speak of a Canada where men and women of aboriginal ancestry, of French and British heritage, of the diverse cultures of the world, demonstrate the will to share this land in peace, in justice, and with mutual respect. I speak of a Canada which is proud of, and strengthened by its essential bilingual destiny, a Canada whose people believe in sharing and in mutual support, and not in building regional barriers.

[Translation]

It is in the spirit of this vision that the Standing Joint Committee on Official Languages believes in and works for the defence of the promotion of the linguistic rights of anglophone and francophone communities in Canada, and it is also in the spirit of this vision that the members of the committee are

moving that this second report presented December 14 be adopted.

[English]

Hon. Mabel M. DeWare: Honourable senators, we agree with the recommendations contained in the report presented by the Honourable Senator Losier-Cool's and we are prepared to support the motion for the adoption of the report.

Hon. Senators: Hear, hear.

Motion agreed to and report adopted.

[Translation]

SCRUTINY OF REGULATIONS

FIRST REPORT OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Joint Committee for the Scrutiny of Regulations (permanent order of reference), presented in the Senate on December 9, 1999.—(*Honourable Senator Hervieux-Payette, P.C.*)

Hon. Céline Hervieux-Payette: Honourable senators, I move that this report be adopted.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

EUROPEAN MONETARY UNION

REPORT OF FOREIGN AFFAIRS COMMITTEE ON STUDY—
ORDER STANDS

On the Order:

Consideration of the fourth report of the Standing Senate Committee on Foreign Affairs entitled: "Europe Revisited: Consequences of Increased European Integration For Canada", tabled in the Senate on November 17, 1999.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I should like Order No. 4 to remain standing in my name.

I believe that I owe honourable senators a word of explanation since this matter has been on the Order Paper for 12 days. I have taken this matter over from Senator Stewart who recently retired. The Foreign Affairs Committee has been quite busy of late. I will get around to dealing with this matter, but I have not had time thus far.

Order stands.

[Translation]

AIR CANADA

ORDER IN COUNCIL ISSUED PURSUANT TO CANADA
TRANSPORTATION ACT TO ALLOW DISCUSSIONS ON PRIVATE
SECTOR PROPOSAL TO PURCHASE AIRLINE—REPORT OF
TRANSPORT AND COMMUNICATIONS COMMITTEE
ON STUDY ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Transport and Communications (power to hire staff) presented in the Senate on December 15, 1999.—(*Honourable Senator Bacon*).

Hon. Lise Bacon: Honourable senators, I move that this report be adopted.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION—
REFUSAL TO DECLARE OTTAWA OFFICIALLY
BILINGUAL—INQUIRY—DEBATED SUSPENDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Fraser*).

Hon. Joan Fraser: Honourable senators, when I speak in this chamber I generally try to use both of Canada's official languages. Today, however, I shall speak only in English, as I join my voice with the voices of those who are urging the Government of Ontario to pass legislation stating that the proposed mega-city of Ottawa will be officially bilingual. I shall speak only in English because I believe it is important to recognize that this is a question that concerns all Canadians — anglophones, francophones, what we in Quebec have learned to call allophones, and native peoples, whether we speak both official languages or only one or, indeed, neither.

There are many reasons why Ottawa, the City of Ottawa, not just the federal government's National Capital Region, should be officially bilingual. The first reason, on a human level, surely is

simply that so many francophones — 125,000, I believe — live here. We know that they do receive and will continue to receive many public services in their language; but, as an English Quebecer, a member of Canada's other language minority, I know the difference between simply receiving services and being fully acknowledged by one's government. I know how it feels to see your own provincial government reluctant to acknowledge that your language community is legitimate, entitled to full recognition for what it is: a branch of one of this country's founding peoples.

I know how it feels to have your provincial government say, in effect, "Look how well we treat you. You should be grateful for all the good things we do for you. Just do not ask for recognition or acknowledgement of what you are. Do not expect anything as a right. What you get from us is charity, not acceptance."

• (1650)

How does it feel? Honourable senators, it hurts. It makes you feel that, in your own home, your own province, you are not seen as a full citizen, even though your ancestors helped to build this land and the Constitution recognizes your language as one of the two official languages of the country.

Honourable senators, we all know that, over the past generation, successive governments of Ontario, including the present government, have made impressive efforts to create and extend a very broad range of French language services and to help francophones to build and control their vital community institutions. While we may all deeply regret the situation at the Montfort Hospital, and while we may hope, as I do, that it will be satisfactorily resolved, it is also important to recognize that the present government of Ontario moved to create francophone control of French schools. That is no small matter. I commend the Government of Ontario for taking that step.

We all understand that are members of the federal Parliament and that, in Canada, it is the provinces which have jurisdiction over municipalities. We know that the creation of the mega-city is a matter which comes under provincial jurisdiction. I am sure that none of us disputes that or would wish to dispute it. It is also indisputable that Ottawa is a special case. It is an Ontario municipality, yes, but it is not a municipality like any other because it is Ottawa and only Ottawa that is the national capital. The National Capital Region is not the capital. It is a region, a beautiful region, appropriately created and administered, a wonderful physical recognition of the importance of the capital to all Canadians; but Ottawa, the City of Ottawa, is the capital.

In Canada, we have two official languages. That fact goes to the very heart of our history, of our existence as a country. It is one of the pillars of our identity and of our national policies. How can it be that the capital city of the country should not officially reflect that wonderful fact? What message does it send to Canadians, not just to francophones but to all Canadians, when we say that even if we have two official languages, only one of them is really official here in the national capital itself?

Honourable senators, last spring I had the privilege of visiting Brussels, the capital city of a country with linguistic difficulties that sometimes make our own arguments look like child's play. You know, I am sure, that Belgium is divided into French and Flemish areas but Brussels is formally, in law and in practice, bilingual. That is how it should be and that, I suggest, is a model for us to carefully consider.

I am aware of the argument that, if we insist that Ottawa be bilingual, we must also insist that Hull be bilingual. That raises a whole different provincial matter. The fact is that Hull is not the capital. Ottawa is the capital. As an English Quebecer, I may fervently wish that the Government of Quebec would designate Hull as an officially bilingual community in the same way that it has recognized bilingual status for a number of other municipalities, including the one in which I live. That, however, does not affect the Ottawa question at all.

I am sure, honourable senators, that we were all pleased to see that the city council of Ottawa has asked Ontario to make the mega-city bilingual. I understand that it is, in fact, only the provincial government that can make any municipality of Ontario bilingual. There have been court cases to that effect.

We know that there is some resistance to this step in some quarters. All of the explicit resistance of which I am aware comes from anglophones and much of it seems to be expressed in terms of fear, fear of what bilingual status for the national capital would mean to the anglophones who live here.

Fear of change is, of course, common and sometimes that fear is justified, but some change is positive. Some change serves to build a better future for our country and for all of us who are so privileged as to be citizens of it. We can come to embrace that change. I think of my own parents, anglophones from Nova Scotia, proud of their roots which stretched back 200 years in this country. They never spoke French. To the best of my knowledge, not one of their ancestors spoke French — Gaelic, yes, but not French.

When my parents were growing up, the question of bilingualism and biculturalism was not even on the horizon. In the 1960s, when English Canada at last came to understand that element of the country's history and identity and future, my parents were among the millions of English Canadians who came to realize it too, who came to rejoice in this country's bilingual, bicultural identity. They did not learn French, but they made it their business to see that I did because they believed that every Canadian who could have that opportunity should speak both languages of Canada. They were proud that I learned to do so. I am eternally grateful to them for having given me that opportunity.

I am aware of the argument that to grant bilingual status to Ottawa would be only a symbol, that what really matters is the services that are delivered on the ground. Nevertheless, symbolism matters. Why do we have flags, for example, if symbolism does not matter? Symbolism matters enormously to

all of us. Where does it matter more than in the capital of the country?

Finally, I suggest that, if Ottawa is a city not like the others, Ontario is a province not like the others. Ontario is not only the richest and most populace province of this country, it is a province which has historically been a leader. It has so many times in our history set the pace, set the model for where Canada should go. It has been a contributor to so many of the elements of our identity of which we are proud — the tolerance, the openness, and the level-headedness on which we pride ourselves.

I urge the Government of Ontario, once again, to assume its historic role of leadership. As we have heard in this chamber today and previously, very serious consideration is being given to other avenues to achieve for Ottawa the bilingual status which I believe it deserves. A court case is planned by our colleague, the Honourable Senator Joyal, perhaps the most indefatigable fighter for minority rights that we know. There are considerations of possible federal action. If it comes to that, then it will have to come to that, but how much better if the Government of Ontario could do as so many of its predecessors have done and assert its leadership and its historic role as a proud guardian of what is best about Canada.

With my whole heart, I urge the Government of Ontario to hear the pleas that have come from this chamber and from so many Canadians.

Hon. Senators: Hear, hear!

[Translation]

The Hon. the Speaker: Honourable Senator Beaudoin, I must unfortunately inform you that there is only one minute remaining before I must leave the Chair for Royal Assent. Once that is concluded, we will continue the debate.

[English]

Honourable senators, the Senate will now adjourn during pleasure to await the arrival of the Right Honourable Deputy of Her Excellency the Governor General.

The Senate adjourned during pleasure.

[Translation]

• (1710)

ROYAL ASSENT

The Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Speaker of the Senate said:

I have the honour to inform you that Her Excellency the Governor General has been pleased to cause Letters Patent to be issued under her Sign Manual and Signet constituting the Honourable Antonio Lamer, Chief Justice of the Supreme Court of Canada, Her Deputy, to do in Her Excellency's name all acts on Her part necessary to be done during Her Excellency's pleasure.

The commission was read by a Clerk at the Table.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts, (*Bill C-4, Chapter 1, 1999*)

The Honourable Gilbert Parent, Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour:

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000, (*Bill C-21, Chapter 2, 1999*)

To which bill I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

• (1720)

The sitting of the Senate was resumed.

ONTARIO

REGIONAL RESTRUCTURING LEGISLATION— REFUSAL TO DECLARE OTTAWA OFFICIALLY BILINGUAL— INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poulin calling the attention of the Senate to the decision of the Ontario Government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.—(*Honourable Senator Fraser*).

Hon. Gérald-A. Beaudoin: Honourable senators, Canada is a bilingual and multicultural federation, as has been acknowledged in our various constitutional laws from 1867 to this day. It is to be expected that the capital of this country would also be bilingual. A number of federal states have bilingual, if not multilingual, capital cities.

It is true that, under the terms of the Canadian Constitution, the municipalities fall under provincial jurisdiction, according to section 92(8) of the Constitution Act, 1867. In other words, the structures and powers of a municipal council are a provincial matter. The division of jurisdictions must be respected.

However, Ottawa is not just any city; it is the capital of Canada. At the heart of this country, the major federal institutions are bilingual, the federal Parliament, the Supreme Court of Canada, Rideau Hall, and the various departments. All these institutions are subject to the Official Languages Act. Ottawa therefore has a unique character, it is different.

Section 16 of the Constitution of Canada addresses the capital and declares that the seat of the federal government is in Ottawa. In *Munro*, 1966, the Supreme Court of Canada recognized that the federal Parliament may pass legislation on the national capital by virtue of its residual powers and by virtue of the clause on peace, order and good governance.

In this case, the Supreme Court recognized the power of the federal Parliament to create a national capital region and a National Capital Commission, and to empower that commission to expropriate land for the beautification of the country's capital.

This National Capital Commission is subject to the Official Languages Act because it is a body established under federal legislation. The federal Official Languages Act, which puts the use of the English and French languages in federal institutions on an equal footing, is based on the residual powers of the Canadian Parliament, as set out in *Jones* in 1975, a unanimous ruling by the highest court in our land.

Part VII of the Official Languages Act makes provision for a certain extension of bilingualism, giving it an obligatory value in addition to its declaratory value in law. Under the Constitution, therefore, there is a certain division of powers in the area that concerns us.

Section 16 of the Constitution Act, 1867, was interpreted broadly and, in my opinion, must continue to be so interpreted. Certain legal experts have already examined the question of a true federal district, like Washington and many other federal capitals. They have studied the question of having a capital on both sides of the Ottawa River, as well as the question of having a federal district on both sides. I do not wish to get into this debate today, because this is not what is before us. The issue before us, however, is nothing less than that of a bilingual capital. That is already something.

In support of his argument in favour of a bilingual capital, my colleague Senator Serge Joyal has already mentioned the principles identified by the Supreme Court in the Reference on the Secession of Quebec to guide the negotiations between Quebec and Canada or between a province and Canada — constitutionality, democracy, the rule of law, respect for minorities, and federalism. If these principles apply in the case of secession, they certainly apply for the renewal of federalism.

I will conclude my legal speech with the comments of Justice Cartwright, in *Munro*, with respect to the theory of national interest:

[English]

I find it difficult to suggest a subject matter of legislation which more clearly goes beyond local or provincial interests and is the concern of Canada as a whole than the development, conservation and improvement of the National Capital Region.

[Translation]

In the reference on the 1976 Anti-Inflation Act, Justice Jean Beetz wrote:

...the development, conservation and improvement of the national capital region are clearly distinct issues that are not related to any of the paragraphs in s. 92 and which, by their nature, are of national interest.

Some will surely argue that there is a difference between the capital and the capital region. This is true and I recognize that, but in my opinion, what is good for Canada's capital region is certainly very good for the national capital itself, which is at the heart of that bilingual region. I have come to the conclusion that the capital of our country must be bilingual.

Hon. Senators: Hear, hear!

• (1730)

Hon. Serge Joyal: Honourable senators, I listened with great interest to the comments made by Senator Beaudoin. I wish to bring to his attention a qualifier regarding his statement on Part VII of the Official Languages Act, which the Official Languages Committee had the opportunity to review. This week, Senator Gauthier gave me information on the precise nature of Part VII. You said that Part VII was obligatory and not merely declaratory.

There is currently a case before the Federal Court of Canada in which the declaratory nature of Part VII of the Official Languages Act is being challenged. Since it is not covered by the sections of the act dealing with possible legal remedies, that part of the act escapes the reviews and orders of Canadian courts. I do not share that opinion in the context of the reference to the Supreme Court of Canada on the secession of Quebec.

This matter was raised by Senator Gauthier and yourself, Madam Speaker *pro tempore*, in your capacity as chair of the Committee on Official Languages. This matter is currently before the courts. By the time it gets to the summation stage, the arguments developed by the Ontario Superior Court in the Montfort Hospital case will be useful to the federal court, which will have to reach a decision in order to clarify once and for all the entire real application of Part VII of the Official Languages Act. As you are aware, it would be extremely important to define the responsibility of the Canadian government with respect to its role in actively promoting the support of official language minorities, both English and French. I wanted to focus my colleague's attention on this important element, which Senators Gauthier and Losier-Cool emphasized in their exchanges relating to the work of this committee.

Senator Beaudoin: Honourable senators, basically we all want the same thing. If there is a challenge, we hope it will be turned down and that it will be found that Part VII of the Official Languages Act has imperative value, not merely declaratory value.

This always reminds me of the famous section 133 decision, in which a lower court had declared the use of French to be indicative, not imperative. In a 9 to 0 decision, the Supreme Court corrected this by stating that when the Constitution speaks clearly and precisely, it is imperative. We are all fighting for the same outcome. It is contested, but this is our system. Very strong arguments may be raised, claiming that this Official Languages Act has an imperative character in Part VII. We must try to lay our arguments before in court.

[English]

Hon. Ione Christensen: Honourable senators, as a unilingual Canadian, I wish to add my voice to the debate on the decision of the Ontario government not to adopt a recommendation to declare the proposed restructured City of Ottawa a bilingual region.

Coming from the furthest western corner of Canada, I find it ludicrous that we should even be having this debate. That the capital of Canada would be anything but bilingual is unthinkable. Canada and bilingualism are synonymous; they are one.

Since 1898, the Yukon has had a very active and proud francophone community. Today, they are represented by the Association francophone Yukonnaise. There is a francophone school and attendance in the French immersion programs of our education system is very high. Canadians from across Canada have come to the Yukon to have their children learn and share in the great dual linguistic culture.

This is neither a municipal issue, a provincial issue, nor a fiscal jurisdiction issue. It is a unity issue. The reaction coming from the province that borders on Canada's largest group of French-speaking Canadians is unbelievably insensitive. The recommendation for a bilingual Ottawa should not have been a question. It was not needed. Bilingualism is a given. Ottawa, our national capital, should reflect our duality and we must accept nothing less.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, an agreement has been reached. I am greatly honoured to request adjournment of the debate in my name, but not without pointing out that I favour persuasion, not legal proceedings.

[English]

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

REPORT OF ABORIGINAL PEOPLES COMMITTEE ON STUDY ADOPTED

Leave having been given to revert to Reports of Committees:

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Aboriginal Peoples (*power to hire staff*) presented in the Senate on December 15, 1999.—(*Honourable Senator Watt*).

Hon. Dan Hays (Deputy Leader of the Government in the Senate) moved the adoption of the report.

Motion agreed to and report adopted.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY STATE OF HEALTH CARE SYSTEM

On the Order:

Resuming debate on the motion of the Honourable Senator Kirby, seconded by the Honourable Senator Mercier:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of the health care system in Canada. In particular, the Committee shall be authorized to examine:

- (a) The fundamental principles on which Canada's publicly funded health care system is based;
- (b) The historical development of Canada's health care system;

(c) Publicly funded health care systems in foreign jurisdictions;

(d) The pressures on and constraints of Canada's health care system; and

(e) The role of the federal government in Canada's health care system;

That the Committee submit its final report no later than December 14, 2001; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.—(*Honourable Senator Di Nino*).

Hon. Marjory LeBreton: Honourable senators, as Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, I wish to make a few comments on this motion.

It is significant that some of the last few words to be spoken in the Senate in this millennium are on this matter. It is appropriate because, as we begin the new millennium, we will be seeking authority from the Senate to examine and report upon the state of the health care system in Canada. This is urgently required and is something that the Senate is particularly suited to doing, as opposed to the House of Commons where other events often get in the way of studies of this nature.

Honourable senators, I support this initiative, as do other members of the committee. We must study this issue seriously. There are many myths about the health care system in Canada. There are many realities that we must face. We must eventually ask what the role of the federal government is and how the system will be economically viable.

I respectfully request that authorization for this study be granted.

The Hon. the Speaker *pro tempore*: Do any other honourable senators wish to speak?

Hon. Michael Kirby: Honourable senators, I will make only two very short comments. First, in light of the discussion held in this chamber last week about the potential cost of the study, let me clarify that the committee envisions spending no more than \$10,000 between now and March 31, 2000.

• (1740)

Second, with respect to the next fiscal year, we do not think it would be a terribly expensive study because we intend to do our international comparisons largely by way of video teleconference, which the Banking Committee discovered works extremely well. Although the terms of reference are broad, I do not anticipate this being a terribly expensive study.

Finally, honourable senators, I should like to make one comment about the way we hope to manage this study. I believe Senator Carstairs, in talking about the way the committee handled Bill C-6, made the observation that in this place the steering committee technically consists of two Liberals and one Conservative. With respect to Bill C-6, we asked Senator Murray to join us at all our meetings and to make sure that he was completely involved in everything we did. Hence, we reached a consensus on two Liberals and two Conservatives. Similarly, when the steering committee started to work on developing terms of reference for this study, we asked Senator Keon to join us. Senator Keon was able to help us get a handle on what the terms of reference were to be and gave us ideas about how this should be handled. The first thing this morning, I sent him a note telling him how important I thought it was that he continue to play a role in this study.

Some Hon. Senators: Hear, hear!

Senator Kirby: We would operate, just as we did on Bill C-6, with a four-person steering committee, consisting of Senator Carstairs and myself on this side, and Senator LeBreton and Senator Keon on the other. I hope that honourable senators will try to ensure that we get the value of Senator Keon's expertise in going through the work of this study over the next couple of years.

Honourable senators, those are my comments. In talking to senators on both sides of the house, I know that there is considerable interest in this study.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF CHANGING MANDATE OF THE NORTH ATLANTIC TREATY ORGANIZATION

Hon. Peter A. Stollery, pursuant to notice of December 9, 1999, moved:

That, notwithstanding the Orders of the Senate adopted on Thursday October 14, 1999, and on Wednesday November 17, 1999, the Standing Senate Committee on Foreign Affairs which was authorized to examine and report upon the ramifications to Canada: 1. of the changed mandate of the North Atlantic Treaty Organization (NATO) and Canada's role in NATO since the demise of the Warsaw Pact, the end of the Cold War and the recent addition to membership in NATO of Hungary, Poland and the Czech Republic; and 2. of peacekeeping, with particular reference to Canada's ability to participate in it under the auspices of any international body of which Canada is a member, be

empowered to present its final report no later than March 10, 2000; and

That the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until March 31, 2000; and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

RECOMMENDATIONS OF ROYAL COMMISSION ON ABORIGINAL PEOPLES RESPECTING ABORIGINAL GOVERNANCE

ABORIGINAL PEOPLES COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY

Hon. Landon Pearson, for Senator Watt, pursuant to notice of December 14, 1999, moved:

That, notwithstanding the Order of the Senate adopted on Wednesday, November 24, 1999, the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the recommendations of the *Royal Commission Report on Aboriginal Peoples* (Sessional Paper 2/35-508.) respecting Aboriginal governance and, in particular, seek the comments of Aboriginal Peoples and of other interested parties on:

1. the new structural relationships required between Aboriginal Peoples and the federal, provincial and municipal levels of government and between the various Aboriginal communities themselves;
2. the mechanisms of implementing such new structural relationships; and
3. the models of Aboriginal self-government required to respond to the needs of Aboriginal Peoples and to complement these new structural relationships;

That the Committee be empowered to submit its final report no later than February 16, 2000, and that the Committee retain all powers necessary to publicize the findings of the Committee contained in the final report until February 29, 2000, and

That the Committee be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

[Translation]

THE SENATE

MOTION IN SUPPORT OF DECLARING
OTTAWA OFFICIALLY BILINGUAL ADOPTED

Hon. Jean-Robert Gauthier, pursuant to notice of December 15, 1999, moved:

That, in the opinion of the Senate of Canada, Ottawa, Canada's capital city, should be officially bilingual.

He said: Honourable senators, the motion I am presenting today is clear and sums up in few words the debate which has been going on here over the last few days. I hope that this debate will continue to be apolitical.

The question of designating my country's capital officially bilingual is essential to the very existence of Canada which, as you all know, has two official languages, English and French. In this country's Constitution, both these languages have equal status and privileges.

This motion calls on the Province of Ontario to declare the new City of Ottawa officially bilingual. A check in the dictionary shows that the word "official" means:

...emanating from an authority that is recognized, duly sanctioned, authorized, et cetera...

The issue is whether the official status conferred by such a declaration can be put on an equal footing or declared equal in law — and in the case before us, would the two official languages have the same rights and privileges? As far as I am concerned, the new City of Ottawa must be officially bilingual, thus conferring equal status on Canada's two official languages, and must come under provincial jurisdiction. I will explain.

Yesterday evening, in the course of the debate, I said clearly that the Province of Ontario must declare the national capital bilingual. Many of you took part in the debate and I thank you, for this strengthens our position.

In addition, Mr. Shortliffe noted in his report on municipal restructuring that it would be up to the council of the municipality of Ottawa to determine the extent and nature of services to be made available in the country's two official languages.

There is no doubt that an Ontario municipality may decide, via a bylaw, that it will provide certain services in both of this

country's official languages. A municipal bylaw may change very rapidly, depending on the mood of a particular municipal council, and this does not lend much certainty to the exercise of both official languages.

I will close by stating that our objective in the Senate has always been to represent this country's regions and, in particular, to defend its minorities. That is why I am pleased today to note the participation in this debate by a number of you, and I trust that you will also be numerous in supporting the motion.

Honourable senators, I was born in Ottawa. I have lived here all my life. I have trouble imagining that the capital of my country could be unilingual only, or to put it in more optimistically, could not be bilingual. I call upon my friends in the Senate to support this motion.

• (1750)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it is an honour for me to second this motion, which is very important. I imagine that hon. senators can understand why an opposition senator, who is also a senator representing New Brunswick, would feel duty-bound to second this motion with conviction. Ours is an officially bilingual province.

Senator Nolin: The only one.

Senator Kinsella: The only province in Canada to be officially bilingual. Senator Louis Robichaud was a pioneer, in that he was the author of the first official languages legislation in our province. I must also mention the contribution of Senator Simard, who continues to promote bilingualism in our province. For us New Brunswickers, it is logical for the capital of our country to be bilingual. It is a matter of principle, and it is my duty and responsibility as a senator for New Brunswick to emphasize this and to second this motion.

Hon. Marcel Prud'homme: Honourable senators, all those who are aware of my longtime friendship with Senator Gauthier know very well that I could not remain silent. I fully support the comments made by Senators Kinsella and Gauthier.

Otherwise, it would be inconceivable to think that I could feel at home here as a French-Canadian and as someone who has a passion for Quebec. Ottawa is my capital and when one speaks about one's capital, one must feel comfortable there. It is not that I do not feel comfortable in the other official language. I have been working on it every day since I first arrived in the other place, and if it were not for Senator Rossiter and a few others who correct my English, you would see that I still have a lot to learn.

I always thought of myself as Senator Gauthier's assistant. That was a joke some did not appreciate, but I was never ashamed to say that I shared his concerns. He is the one who opened the doors for me among the minorities who fight for the survival of the French fact across Canada. He put me in touch with all his contacts, in British Columbia, Alberta and even in provinces that are a little less receptive.

[English]

Honourable senators, it is very easy to be divisive in order to be popular. Today, however, I do not have the strength for that and, as I get older, I have less and less strength. For those who have known me on the other side and at times here, you know how passionately I can argue either side. I could be very popular with a group of Canadians but, at the same time, denounce those who may not agree with me. It is too easy to do so. I have done it in your province, Your Honour, in the 1960s, when I was a guest speaker for the Daughters of the Eastern Star, who had rejected me as a speaker. I was supposed to bring greetings from Mr. Pearson, who had to return to Ottawa. Instead of going back to Quebec to denounce the who rejected me, I went directly there and pretended that I did not get the message. Do you know how many friends I made among the Daughters of the Eastern Star? One person said, "We do not need the greeting"; however, 700 others were very happy to receive the greetings expressed by me in my broken English.

Honourable senators, you have two ways to go in this country: You have the people who are builders; and you have the people who prefer to be divisive. I have been hit more often than not for some political opinions that I have on other issues. I have never chosen the easy road, which is to denounce. There are those who almost assassinate you, sometimes, because of your political opinion on any given issue. Even in my old age, I continue to hope that I can persuade people.

Honourable senators, a few hours ago there were young people in my office who come from a project in my home district. They are now in Mr. Pettigrew's district. Half of them have never been interested in politics; and half of them were very sad about the process and did not share our political opinion here. However, after less than half an hour of patience and explanation, they now want to come back to see honourable senators at work because they saw the members of the House of Commons earlier today.

I wish to join with Senator Kinsella and thank our friend, le grand champion.

[Translation]

It is not easy to be a champion in Ontario or in other provinces. This is why I congratulate Senator Kinsella. He is not afraid to express his opinion. I could name all the other ones, but I will abstain because I might forget some. I mention Senator Kinsella because he made his views known, and I thank him for that. I assure him of my unfailing friendship and I will be by his side to fight the good cause, the Canadian cause, but a Canadian cause that is well understood.

[English]

It is too easy to go around the world and claim what Canada is all about but then forget about what you said when you return home. I just returned from Pakistan, among other places. They see in Canada things that Canadians hardly can see. You cannot travel freely outside many countries like we can in Canada, and then return home and refuse to work for democracy. Canada is a

country that must be built every day. It is a country that is in the making every day. That demands patience. Sometimes, you must refrain from trying to get even, as some of us do. Giving it back to those who give it to you solves nothing. It is a bad example to set for our young pages who come from across Canada when they some people here talking against each other.

Honourable senators, each of us has a duty. We should rededicate ourselves to Canada. This can be done if only 100 senators attended 10 events a year to defend Canada and to explain what it is all about to be Canadian. That is what Senator Gauthier is trying to do, and that is what I am trying to do in my own way.

Hon. Norman K. Atkins: Honourable senators, I want to congratulate Senator Gauthier on his motion. I think it is appropriate that the last order on the Order Paper in this millennium is this issue. As an Ontario senator who is not bilingual — and, I am sorry for that — I simply hope that there will be unanimity in support of this motion.

Hon. Senators: Hear, hear!

Hon. Bill Rompkey: Honourable senators, I rise to speak on this motion for two main reasons. First, I want to support Senator Gauthier. Senator Gauthier and I were both elected in 1972. I simply want to support my colleague, the last remaining colleague in Parliament from the class of 1972.

• (1800)

The Hon. the Speaker: Honourable senators, I am sorry to interrupt you but it is six o'clock.

Hon. Dan Hays (Deputy Leader of the Government): Your Honour, I propose that we not see the clock.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Rompkey: It is not my intention to detain the house, honourable senators, but I will say a few words. I want to support Senator Gauthier and the personal and political courage which he shows today.

My second reason for speaking arises from comments by Senator Fraser, given on another occasion, in another place. She said that this is not a francophone issue; this is a Canadian issue. As a Newfoundlander, I come from a group of newer Canadians, in that we only joined this country in 1949. Then, as unilingual anglophones, we had to learn a lot about Canada. Many of us still do not speak French. As a matter of fact, some of us do not even speak English all that well. We speak the language of Shakespeare. I can see Senator Cochrane admonishing me from her place. Let me just say that we on the island and in Labrador speak a language which began in Shakespeare's time, in the 16th century, and it has not changed a lot since then. We make no apologies for that. It is other people who have changed the English language, not us.

The linguistic status of Ottawa is neither a francophone issue nor an anglophone issue. It is a Canadian issue. I stand in support of a bilingual capital because Ottawa is the capital of those who live in Labrador. It is the capital of those who live in the territories and of those who live in Nova Scotia. It is the capital of those who live in P.E.I. and in New Brunswick, in British Columbia and in Manitoba, in Saskatchewan and in Alberta, in Ontario and in the Province of Quebec. It is the capital of us all. As such, it should reflect the nature of this country.

The nature of this country is that both founding races must feel comfortable. We have gone through that battle any number of times in the House of Commons, making an accommodation with the various groups in this country, making people feel comfortable in Canada, giving services and allowing the Government of Canada to serve in both official languages. This provision is important. This capital city, where we all live and work, should reflect the bilingual nature of this country and the culture of which we are so proud. That is why I support this motion, honourable senators.

Hon. Joyce Fairbairn: Honourable senators, I would not wish this moment to pass without joining with colleagues on both sides of the house to support this motion by my old friend Senator Jean-Robert Gauthier. Senator Gauthier was put on earth for a moment like this. He has been a voice for fairness in this city, in this province and in this country for the many years that I have known him. In a moment like this, when we see an incomprehensible state of mind in the capital city of this province, it is very fortunate that there is such a person with the strength of character and passion of Senator Gauthier. He has once again led the forces of Canadianism and fairness and equality on this issue.

It is very true that the linguistic status of Ottawa is a Canadian issue. You cannot go to any part of Canada without knowing that some of the most inspiring pioneers, no matter how far west or north or east you go, were people who brought the French language and the French culture into every region of our country. We are very proud of those pioneers in Alberta but they are, as my friend Senator Prud'homme says, always struggling to retain their culture. The farther we go from the centre, often the harder the struggle becomes. This issue is a battleground.

I am proud to stand beside my colleague Senator Gauthier on this question. There are people in Saint-Paul, in Lac La Biche, in Morinville and in St. Albert who are watching to see what will happen in Parliament on this issue, to see whether they count as full Canadians. Of course, they do!

I say to Senator Gauthier, "Thank you." I say to all honourable senators that this is a proud moment in the Senate when we can all stand together on an issue as fundamental to our country as this one.

Hon. Senators: Hear, hear!

Hon. Sharon Carstairs: Honourable senators, in 1905, after the birth of her seventeenth child, my grandmother, Sophie Leblanc Martel, left her small fishing village in Cape Breton and

moved to Boston, Massachusetts. When she arrived there, she told her children they were no longer to speak French; that they were now living in an English country and they were to learn and speak English.

My mother was born, the eighteenth and last child, two years later. She never heard her mother speak French except when her mother said her prayers. I think my grandmother would be very happy to know that her grandchildren, at least some of us, came back to Canada, to a bilingual country. I think she would accept that the City of Ottawa, the capital city of this country, should be a bilingual city.

I was raised to think, in the first instance, that I was Irish on one side and American on the other side until, one day, my mother arrived home with a piece of very old stained glass, patterned with a fleur-de-lys. It is now in my office in the East Block. My mother cleaned that glass and put it on a stand in the living room. Then she announced to my father that his children were not just Irish; her children were French-Canadians.

Hon. Francis William Mahovlich: Honourable senators, in 1972 when Senator Rompkey and Senator Gauthier were appointed, I happened to be in Russia with a bilingual Canadian hockey team. We were very successful; and 1972 was a very good year.

I merely wanted to express my agreement with the remarks made by Senator Rompkey.

[Translation]

Hon. Fernand Robichaud: Honourable senators, I wish to express my support for Senator Gauthier's motion. I thought it would be taken for granted that I would support that motion. Of course I support it. It might often be taken for granted — I think many people take it for granted — that the national capital must be bilingual.

When we are a minority, we often make the mistake of taking certain things for granted. The fact that we have to table a motion to ask that the national capital region be bilingual shows that we must always be vigilant. We must encourage people to respect both official languages of the country. I unconditionally and sincerely support this motion.

• (1810)

Hon. Marie-P. Poulin: Honourable senators, today we see the position the Senate occupies in our country. As several of our colleagues have so eloquently said, it is entirely fitting that we end 1999 with pride and a unanimous motion in principle. The Senate of Canada represents all minorities and professions, the full cultural diversity and resources of our country.

Last Tuesday, I expressed my surprise that there was an unwillingness to recognize the bilingual status of Canada's capital. A few days later, in the service of the country, as legislators representing Canadians, we rallied and spoke out with one voice, one heart and one sense of pride. All the teams that support us deserve our congratulations.

Hon. Louis J. Robichaud: Honourable senators, I went from being disappointed and almost insulted, when the Government of Ontario decided that the national capital might not be bilingual to being delighted at what my colleagues in the Senate were saying about feeling offended because of the refusal to declare Ottawa, our nation's capital, officially bilingual.

Earlier, Senator Frank Mahovlich said that, in 1972, an important event took place in Canada and in Moscow; I was there too. That was when the Canadians showed their mastery in something dear to them — the sport of hockey. We also hold something else dear, and that is bilingualism. We would so like to see an end to these battles. We would so like not to have to fight to have bilingualism officially recognized.

I did not intend to say anything at all. I was absolutely certain that the motion by Senator Jean-Robert Gauthier would be unanimously adopted. As was pointed out, I am one of the last in this millennium to speak. I am very clearly in favour of bilingualism.

Hon. Aurélien Gill: Honourable senators, I too would like to support Senator Gauthier's motion. I would also like to congratulate the two majority groups in the country that would like the nation's capital to keep the name of Ottawa.

The Hon. the Speaker: If no other senator wishes to speak, I will proceed. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

[English]

Senator Kinsella: I would ask for agreement that the record show that this motion passed unanimously.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

CHRISTMAS WISHES

Hon. Mabel M. DeWare: Honourable senators, on behalf of the official opposition, I wish to thank His Honour, the Table

Officers and the pages for their support in this wonderful institution in which we work. I wish you and all honourable senators a joyous holiday season and extend our best wishes as we step into the new millennium.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I join my colleague opposite in wishing everyone a happy holiday season and all of the best in the next millennium, the 21st century. I thank everyone here for their cooperation and assistance and the good service they have done to their country in this institution.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 8, 2000, at 2 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, before I put the motion, I, too, wish to thank all Senate staff for the fine support.

[Translation]

I wish everyone a very Merry Christmas and a very Happy New Year. This is an historic day, the last sitting of 1999, the last sitting of this millennium.

[English]

I wish you all the very best for the coming year. I regret that the Chief Justice had to leave, as we sat a little longer than anticipated, but I hope to see all of you in my chambers.

Motion agreed to.

The Senate adjourned until Tuesday, February 8, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)
Thursday, December 16, 1999

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	none	99/12/16		
				Foreign Affairs	99/12/09	none			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	two			

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	none	99/12/14	99/12/16	35/99
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		Subject matter 99/11/24	99/12/06				
			99/12/06	Social Affairs, Science and Technology	99/12/07	2	99/12/09		
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08		
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14							
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15	—	—	—	99/12/16	99/12/16	36/99

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04							
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	—	—	—	99/12/08		

CONTENTS

Thursday, December 16, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		Canada-France Inter-Parliamentary Association	
Richard G. Greene		Report of Canadian Group on 29th Annual Meeting from September 8 to 15, 1999 Tabled. Senator Beaudoin	519
Tributes on Retirement. Senator Fairbairn	514	Inter-Parliamentary Union	
Senator Carstairs	514	Report of Canadian Group on 102nd Inter-Parliamentary Conference Held in Berlin, Germany—Notice of Inquiry.	
Senator Prud'homme	515	Senator Finestone	519
Canada-Europe Parliamentary Association			
The Organization for Security and Co-operation in Europe Parliamentary Assembly from October 13 to 15, 1999.		QUESTION PERIOD	
Senator Grafstein	515	Agriculture and Agri-Food	
Contributions of Prominent Canadian Women		Plight of Western Grain Farmers— Response to Report of House of Commons Committee. Senator Gustafson	
Senator P��pin	516	Senator Boudreau	
The Senate		Plight of Western Grain Farmers. Senator Tkachuk	
Condition of Senator Willie Adams. Senator Finnerty	516	Senator Boudreau	
Visitors in the Gallery		Plight of Western Grain Farmers— Request for Response by Prime Minister. Senator Andreychuk	
The Hon. the Speaker	516	Senator Boudreau	
ROUTINE PROCEEDINGS		Intergovernmental Affairs	
Security and Intelligence		Ontario—Regional Restructuring Legislation— Legal Process Required to Declare Ottawa Officially Bilingual.	
Government Response to Report of Special Committee Tabled.		Senator Gauthier	
Senator Hays	516	Senator Boudreau	
State of Domestic and International Financial System		Senator Joyal	
Report of Banking, Trade and Commerce Committee on Study Presented. Senator Kolber	517	Senator Comeau	
Internal Economy, Budget and Administration		Senator Grafstein	
Third Report of Committee Tabled. Senator Rompkey	517	Senator Prud'homme	
Senator Nolin	518	Senator Beaudoin	
National Defence Act		Senator Finestone	
DNA Identification Act		Transport	
Criminal Code (Bill S-10)		Halifax International Airport Authority Agreement— Obligation by Federal Government to Control Acidity of Slate.	
Report of Committee. Senator Milne	518	Senator Forrestall	
Statistics Act		Senator Boudreau	
National Archives of Canada Act (Bill S-15)		Aboriginal Peoples	
Bill to Amend—First Reading. Senator Milne	518	Request for Response to Committee Report on Aboriginal Veterans.	
Inter-Parliamentary Union		Senator Andreychuk	
Report of Canadian Group on 102nd Inter-Parliamentary Conference Held in Berlin, Germany Tabled.		Senator Boudreau	
Senator Finestone	518	ORDERS OF THE DAY	
Report of Canadian Group on 54th Session of United Nations General Assembly Held in New York Tabled.		Appropriation Bill No. 3, 1999-2000 (Bill C-21)	
Senator Finestone	519	Third Reading. Senator Cools	
Canada-Europe Parliamentary Association		Senator Kinsella	
Report of Canadian Delegation to the Organization for Security and Co-operation in Europe Parliamentary Assembly from October 13 to 15, 1999. Senator Grafstein	519	Income Tax Conventions Implementation Bill, 1999 (Bill S-3)	
		Third Reading. Senator Lynch-Staunton	
		Senator Grafstein	
		Senator Hervieux-Payette	

	PAGE		PAGE
Nisga'a Final Agreement Bill (Bill C-9)		Senator Christensen	540
Second Reading—Debate Adjourned. Senator Austin	527	Senator Prud'homme	541
Senator Beaudoin	533		
Senator Comeau	533	Recommendations of Royal Commission on Aboriginal Peoples	
Senator Kinsella	534	Respecting Aboriginal Governance	
Royal Assent		Report of Aboriginal Peoples Committee on Study Adopted.	
Notice.	534	Senator Hays	541
Parliament of Canada Act (Bill S-5)		Social Affairs, Science and Technology	
Bill to Amend—Second Reading—Debate Continued.		Committee Authorized to Study State of Health Care System.	
Senator Corbin	534	Senator LeBreton	541
Immigration Act (Bill S-8)		Senator Kirby	541
Bill to Amend—Second Reading—Order Stands.			
Senator Hays	536	Foreign Affairs	
Official Languages		Committee Authorized to Extend Date of Final Report on Study of	
Second Report of Joint Committee Adopted.		Changing Mandate of the North Atlantic Treaty Organization.	
Senator Losier-Cool	536	Senator Stollery	542
Senator DeWare	536		
Scrutiny of Regulations		Recommendations of Royal Commission on Aboriginal Peoples	
First Report of Joint Committee Adopted.		Respecting Aboriginal Governance	
Senator Hervieux-Payette	536	Aboriginal Peoples Committee Authorized to Extend Date of	
European Monetary Union		Final Report on Study. Senator Pearson	542
Report of Foreign Affairs Committee on Study— Order Stands.			
Senator Stollery	536	The Senate	
Air Canada		Motion in Support of Declaring Ottawa Officially Bilingual Adopted.	
Order in Council Issued Pursuant to Canada Transportation Act		Senator Gauthier	543
to Allow Discussions on Private Sector Proposal to Purchase		Senator Kinsella	543
Airline—Report of Transport and Communications Committee		Senator Nolin	543
on Study Adopted. Senator Bacon	537	Senator Prud'homme	543
Ontario		Senator Atkins	544
Regional Restructuring Legislation— Refusal to Declare Ottawa		Senator Rompkey	544
Officially Bilingual—Inquiry—Debated Suspended.		Senator Hays	544
Senator Fraser	537	Senator Fairbairn	545
Royal Assent	538	Senator Carstairs	545
Ontario		Senator Mahovlich	545
Regional Restructuring Legislation— Refusal to Declare		Senator Robichaud	545
Ottawa Officially Bilingual— Inquiry—Debate Continued.		Senator Poulin	545
Senator Beaudoin	539	Senator Gill	546
Senator Joyal	540	Christmas Wishes	
		Senator DeWare	546
		Senator Hays	546
		Adjournment	
		Senator Hays	546
		Progress of Legislation	i



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION •

36th PARLIAMENT •

VOLUME 138 •

NUMBER 24

OFFICIAL REPORT
(HANSARD)

Tuesday, February 8, 2000

**THE HONOURABLE GILDAS L. MOLGAT
SPEAKER**

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Tuesday, February 8, 2000

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before I call Senators' Statements, I should like to draw your attention to some distinguished visitors in our gallery. We are honoured to have the presence of His Excellency Boris Trajkovski, President of the Republic of Macedonia, accompanied by His Excellency Jordan Vesilenov, the Ambassador of the Republic of Macedonia to Canada.

On behalf of all honourable senators, I wish you welcome to the Senate of Canada.

Honourable senators will know that there are many young Canadians presently stationed in Macedonia. That country has been extremely helpful in the efforts of Canada to bring peace to the Balkans.

As well, I should like, honourable senators, to draw your attention to the presence in the gallery of the Honourable Gary Carr, the Speaker of the Legislative Assembly of Ontario, accompanied by Mr. Claude DesRosiers, Clerk of the Legislative Assembly.

Welcome to the Senate of Canada.

SENATORS' STATEMENTS

BLACK HISTORY MONTH 2000

Hon. Donald H. Oliver: Honourable senators, the first Black History Month of the 21st century officially began at midnight on January 31, 2000. I marked it by attending the Annual Black History Month Kick-Off Brunch in Toronto with Professor George Elliot Clarke, the Honourable Lincoln Alexander and Judge Stanley G. Grizzle.

The celebration of black history has come a long way since 1926. It was then that Carter G. Woodson, a black American historian, educator and publisher, founded Negro History Week in response to the prevailing rationale that Africans and people of African descent were without history. Woodson, who is known as the father of black history, wanted to honour the contributions, experiences and stories of black people in America. He chose the

second week of February, which marks Abraham Lincoln's approval of the thirteenth amendment to the American Constitution abolishing slavery, and also the birthday of a prominent black advocate, Frederick Douglass.

Carter Woodson's goal was not only to educate his own community about its rich heritage but also to make American society aware of the contributions made by their fellow black citizens. It was only in 1976, during the U.S. bicentennial, that the commemoration week was expanded into National Black History Month.

Here in Canada, the now-defunct Canadian Negro Women's Association was the first to mark the month in Toronto in 1950. It was only formally recognized by that city as Black History Month in 1978. In 1993, the month was officially proclaimed in Ontario to mark the two-hundredth anniversary of legislation introduced by Lieutenant-Governor John Graves Simcoe to prohibit the importation of slaves into Upper Canada.

February was officially decreed as Black History Month across Canada in 1995. Over the past six years, it has evolved into a nationwide celebration and tribute to the contributions made by black Canadians. In Nova Scotia, there are more than 160 events planned in honour of black history. The theme of our celebration is "Passing the Torch, Lighting our Future," in recognition of the new millennium and the need to pass on a sense of culture to our youth.

I always consider Black History Month a time when great friendships and understanding among communities of every race and ethnicity can be fostered. The events of this month encourage a harmony between cultures that I hope will inspire us all to reach year-round. I am happy that Black History Month serves as a reminder.

For my part, I will be participating directly in speaking engagements in more than 14 events this month, including a gala hosted by the Canadian Association of Black Lawyers in honour of black judges in Canada; a reception hosted by the High Commission for South Africa in recognition of the tenth anniversary of Mr. Nelson Mandela's walk from prison on February 11, 1990; and a reception with poet-author and playwright George Elliot Clarke, whose critically acclaimed play *Whydah Falls* will be performed at the National Arts Centre at the end of the month.

Events such as these support the importance and value of diversity among Canadians. I hope that all honourable senators will get a chance to enjoy a little of Black History Month.

NORTHWEST TERRITORIES

FORT LIARD MEETING—MOTION ON OIL AND GAS DEVELOPMENT

Hon. Nick G. Sibbeston: Honourable senators, this is my first statement in the Senate. I am honoured to rise on behalf of the people of the Northwest Territories. On January 25 and 26 of this year, chiefs and other aboriginal leaders met in Fort Liard in the Northwest Territories to discuss oil and gas development issues and, particularly, the prospects of a Mackenzie Valley pipeline from the Arctic to southern Canada and the United States. Members may recall that in the mid-1970s a huge gas pipeline was proposed to be built by multinational corporations down the Mackenzie Valley to bring Arctic-Alaskan natural gas to southern markets.

That issue prompted the federal government to establish the Berger inquiry, which dealt with numerous issues surrounding the construction of a Mackenzie Valley pipeline. Mr. Thomas Berger, at the conclusion of the inquiry, stated:

...that if a pipeline were built now in the Mackenzie, its economic benefits would be limited, its social impact devastating and it would frustrate the goals of native claims.

Mr. Berger concluded that there ought to be a 10-year moratorium on the construction of a gas pipeline. The government of the day abided by the recommendations and no pipeline was built.

It has been approximately 23 years since Mr. Berger made his recommendations, and many positive changes have occurred for the peoples of the North.

Aboriginal peoples of the North are much more able to deal with developments such as mines and pipelines. Education level, experience in technological work and confidence of people to take part in development has grown. Land claims have been or are being settled with most of the aboriginal peoples of the North. Government of the Northwest Territories has evolved into responsible government. People have experience with oil and gas development and small pipelines.

People generally are better able to deal with developments such as large pipelines that are being proposed, once again, in the Mackenzie Valley. Therefore, at the Liard meeting, the chiefs passed the following motion:

We, the Aboriginal Peoples of the Northwest Territories, agree in principle to build a business partnership to maximize ownership and benefits of a Mackenzie Valley pipeline.

The message that the chiefs and the aboriginal leaders wish to make is that, yes, times have changed. Aboriginal peoples are no longer opposing projects, such as huge gas pipelines traversing their lands. However, they intend to be involved in all aspects of the project — the planning, the route selection, construction and, most important, ownership of the pipeline.

Honourable senators, the stance of this motion is significant for all peoples of the North. Those of us who have been involved in government and the politics of the North know the difficult times that aboriginal peoples of the North have gone through the past few decades. It has been a struggle for their rights and to gain their rightful place in northern society. This motion marks the start of a new era of hope and a willingness to participate as partners, not to be bystanders in economic projects such as massive gas pipelines. If governments and the oil and gas producers can heed this new approach and be willing partners, the future of the North bodes well for all people living in the Northwest Territories.

THE LATE HALINKA DYER

TRIBUTE

Hon. Gerry St. Germain: Honourable senators, I rise today to pay tribute to someone whom I consider to be one of the unsung heroes of the Senate. I recently suffered the untimely loss of my office assistant and friend Halinka Dyer. On December 21, 1999, the world lost the loving wife of David, the devoted mother of Jay, Jordan, Spencer and Matthew, the daughter and sister of the Tubin family and, as well, a good friend to many of us. This was a loss that I will never be able to properly transform into written words that would properly justify the impact Halinka had on so many different individuals.

• (1420)

Halinka was first a devoted, loving wife and mother, as I mentioned earlier. To me, she was a rare find as a work partner and a friend. Her brilliant mind and exemplary organizational skills provided my office and the office of others who sought her advice and assistance with a resource possibly not replaceable in one's short lifetime. Her zest for life and positive outlook shone throughout the Victoria Building as she went around being the outstretched hand to all.

I have chosen to pay tribute to this young person we lost at 46 years young for two reasons: to thank her family for sharing Halinka and to thank her friends who recommended her to my office and to me. She epitomized the vibrant life from her jogging regimen, which I foolishly tried to share with her on occasion, to the way she made everyone feel at home when they visited my office.

However, the real reason I have risen today is to bring to the forefront what I feel must be a priority for all of us and requires our immediate attention. We lost Halinka to the dreaded disease of breast cancer — a disease that takes from us our grandmothers, mothers, wives, daughters, sisters and nieces in huge numbers much too early in life. No, they are not a vocal special interest group that seeks publicity and attention in a disproportionate manner; they are too busy as mothers, grandmothers and wives giving of themselves and never asking in return for anything more than unconditional love.

Our Halinka was one of these, and it is in that spirit that she always projected herself. That is why today I ask each and every senator in this place to take up the cause, if you have not already done so. One just never knows — if we all do a little bit, we can and will make a difference in the fight against this dreaded disease.

Honourable senators, I have had the privilege of being part of this place and having served in the other place. I find it hard to believe that we as Canadians have not committed more funding to fight breast cancer. I should have recognized this urgency sooner myself. However, I do now commit to do more from this day forward on this most crucial matter.

Halinka, your memory will live on forever and you will be missed.

[Translation]

TOPONOMY COMMISSION OF QUEBEC

Hon. Lise Bacon: Honourable senators, on November 18 of last year, in response to a request by Mr. Giuseppe Sciortino and Mr. Enrico Riggi, the Commission de toponymie du Québec agreed to change the name of the Papineau-Leblanc bridge to honour the memory of our old friend and colleague, Pietro Rizzuto. These two gentlemen were supported in their application to the commission by a number of public figures from a variety of backgrounds.

In supporting this initiative, those men and women wished to celebrate the memory of this son of Italy who came to Montreal in the early 1950's with no resources other than his intelligence, courage and native wit, speaking neither English nor French, and who went on to become a respected and prosperous Canadian businessman.

By naming such an important infrastructure in his honour, the supporters of Pietro Rizzuto also wanted to mark his devotion to the Quebec and Canadian communities. Mr. Rizzuto demonstrated that commitment through a wholehearted desire to fully integrate within the society that had taken him in. He also proved it through his political activity. For Pietro Rizzuto, it was perfectly normal to devote a large part of his energies to the wellbeing of a country which had made his business accomplishments possible, and where he and his wife, Pina, raised their family.

Unfortunately, the plan to give recognition to the career of an admirable man led to controversy. Increasing numbers of protests forced Mr. Sciortino and Mr. Riggi to defend the commission's decision.

As a matter of principle, some opposed the very idea of changing the name of an infrastructure. I am not prepared to debate here the merits and lack thereof of such a practice. It is, however, important to remember that it has already been used to honour the memory of famous Quebecers, and occurs regularly in France and elsewhere. We can only hope, in the name of

intellectual rigour, that the determined and zealous defenders of Quebec's toponymic tradition would have been just as determined if the Commission de toponymie had rechristened the Papineau-Leblanc bridge in honour of Camille Laurin or Gérald Godin.

Had the opponents of the project been content to discuss the pros and cons of toponymic changes, the debate raised by the decision of the Commission de toponymie could have been defended for those close to Pietro Rizzuto.

Unfortunately, doubt was cast on the reputation of Pietro Rizzuto by some who wanted to judge the merits of the man. Untruths were written, and unfounded rumours circulated. Pietro Rizzuto and his family did not deserve such treatment.

While certain remarks unfairly cast doubt on the reputation of Pietro Rizzuto, certain politicians for their part did not act honourably. There are the MPs and ministers who failed to seize the opportunity to establish ties between the communities. There is, as well, the mayor, incapable of keeping his word, who suddenly changed his mind in the face of a petition. Finally, there is the minister, who, ever ready to put on the mantle of virtue, declared that Pietro Rizzuto deserved better than this debate but found nothing better to do than hide behind his officials, refusing to honour his responsibilities.

In immortalizing the name of our former colleague, the supporters of the Pietro Rizzuto bridge hoped to celebrate the significant contribution made by the various cultural communities to Quebec society. For over one hundred years, immigrants from the four corners of the planet have settled alongside the descendants of the French and English colonists and members of the First Nations. Like Pietro Rizzuto, they helped develop and enrich Quebec.

The important contribution made by these new citizens to Quebec society must be recognized for what it is worth. Without neglecting our past, toponymy must also reflect the reality of Quebec society. This was the aim of the initiative taken by Mr. Sciortino and Mr. Riggi.

[English]

VIMY HOUSE

Hon. Norman K. Atkins: Honourable senators, I should like to again draw the attention of the members of the Senate to Vimy House. During Question Period in December, Senator Boudreau indicated that he wanted to familiarize himself with this facility. I wish to report that he fulfilled that commitment and that both of us visited the facility on January 11, 2000.

For those members who do not know about Vimy House, it is a facility that stores a large number of national war treasures that are not able to be displayed at the Canadian War Museum. In fact, it was the personnel at Vimy House who supervised the restoration of the eight paintings that hang in this chamber.

As some honourable senators are aware, I keenly support the initiative to build a new Canadian war museum adjacent to the National Aviation Museum in Rockcliffe, a facility which would allow considerably more of our national collection to be put on display.

Each time I tour Vimy House, I am amazed at the number of war-related paintings and drawings by Canadian and international artists that Canadians are not being given the opportunity to view and enjoy, not to mention the artifacts, artillery and vehicles that are stored, packaged or crated which represent the memories of various wars, conflicts and peacekeeping missions in which our Canadian military has participated.

The more exposure that Canadians have to these artifacts, the more they would understand the incredible sacrifice and involvement of Canadians who served in the different theatres of war. It would enable Canadians to understand more thoroughly why veterans and members of our Legion are so proud and feel so strongly that Canadians never forget their contribution for peace and freedom, nor take for granted the freedom that all of us enjoy.

• (1430)

Honourable senators, I hope you will find time to visit Vimy House so that you will understand how important it is to support the campaign to build the new Canadian War Museum.

Hon. Senators: Hear, hear!

ALZHEIMER'S AWARENESS MONTH

Hon. Catherine S. Callbeck: Honourable senators, I rise today to highlight the fact that January was Alzheimer's Awareness Month. Alzheimer's Awareness Month is sponsored by the Alzheimer's Society, which consists of a national office, 10 provincial organizations and a number of local groups across the country.

Alzheimer's disease is a progressive, degenerative disease of the brain that gradually destroys vital brain cells. There is no known cause or cure. However, this disease is age related. Therefore, as the senior population rises so will the number of Alzheimer's patients.

Today, in Canada, approximately 300,000 people are said to suffer from this disease. However, 30 years from now it is said that the number of Alzheimer's patients will more than double to over 750,000 individuals nationwide. Without planning or a strategy to deal with such a rise, there will likely be tremendous implications. The most obvious are the effects on our health care system and budgets. However, if there are not enough resources or support systems available to deal with the rising numbers, there could also be a negative impact on the quality of life of Alzheimer's patients and their primary caregivers.

Stephen Rudin, of the Alzheimer's Society of Canada, spoke about the impending crisis in a recent article on this issue, an issue that he feels will grow slowly but steadily over the next few years.

The largely volunteer-driven Alzheimer's organizations continue to work tirelessly in delivering their many services to patients and their families. Moreover, some have also begun to work with provincial governments, recognizing the need for an overall strategy to combat the disease. For example, the society in Prince Edward Island is working to develop a strategy for caring for people affected by Alzheimer's disease and related dementia, which they will present to the Government of Prince Edward Island later this month. The goal of this strategy is to develop a coordinated system of care based on the unique needs of those with the disease. The steps taken thus far by provincial organizations and government are positive and should be congratulated. However, they are only the beginning. More study and awareness of this disease, as well as the coordination of services, is needed.

That said, I look forward to studying some of the health care implications surrounding this disease when the Standing Senate Committee on Social Affairs, Science and Technology begins its study into health care in Canada this month.

[Translation]

SUPREME COURT

DECISION ON RIGHT TO FRANCOPHONE SCHOOL IN SUMMERSIDE, PRINCE EDWARD ISLAND

Hon. Gérald-A. Beaudoin: Honourable senators, I wish to draw attention to an important decision regarding educational rights recently handed down by the Supreme Court.

In *Arsenault-Cameron*, the Supreme Court ruled that parents of French-speaking children in Summerside were entitled, under the Constitution, to have a French-language school. The criterion that there had to be a sufficient number of students (between 49 and 155) had been met. This criterion is based both on known demand and on the total number of students that might eventually take advantage of the service offered.

In this case, the refusal of the Government of Prince Edward Island to follow the advice of the Commission scolaire de langue française and to establish a school for French-speaking children living in Summerside had the effect of depriving these children of a school near their place of residence and negating the corrective character of section 23 of the Charter.

The Supreme Court also held that, while provincial governments must "do whatever is practically possible" to ensure compliance with section 23 of the Charter, this provision was also intended to "give effect to the equal partnership of the two official-language groups in the context of education". The Court thus recognized that the official-language minority was entitled to the right provided for in section 23 of the Charter. In so ruling, it expressly conferred a collective right.

The Supreme Court also admitted that the concept of real equality required that the minority in question be treated differently from the majority in order for the level of education provided to be equivalent. Each case, of course, must be judged on its merits.

THE LATE ANNE HÉBERT

TRIBUTE

Hon. Lucie Pépin: Honourable senators, on Saturday, January 22, a beacon of French Canadian and Quebec literature left us. Anne Hébert, the author of *Kamouraska* and the recipient of the Prix Femina in 1982 for her book *In the Shadow of the Wind*, died in Montreal at the age of 83, following a battle with cancer.

Anne Hébert was born on August 1, 1916, in Fossambault-sur-le-Lac, which is now called Sainte-Catherine-de-la-Jacques-Cartier, a small village located 40 kilometres northeast of Quebec City. She grew up in a family environment that was conducive to the blossoming of her talent. Her father, who was of Acadian descent, was a respected poet and literary critic, and a member of the Royal Society of Canada. Of noble descent through her mother, Anne Hébert spent her summers as a child and a teenager either in Sainte-Catherine or in Kamouraska, in a setting that included marine vistas, broad open fields and forests. Anne Hébert never stopped recreating in her books the days of her youth spent in nature, always displaying great sensitivity.

In 1939, Anne Hébert published her first poems in periodicals. Her talent as a poet was quickly recognized. In 1943, her first collection of poems, *Les songes en équilibre*, won her third prize for the Prix Athanase-David. That first recognition marked the beginning of a series of about 20 highly coveted national and international awards for Anne Hébert, between 1943 and 1999.

Anne Hébert also had to overcome a number of obstacles, as is unfortunately the case for too many of our artists. Even after she won third prize at the Prix Athanase-David, in 1943, publishers refused to publish her second book, *The Torrent*. She had to get it published at her own expense by the Éditions du Bien public, in Trois-Rivières. Her masterpiece, *Tomb of the Kings*, suffered the same fate.

Anne Hébert was the first francophone woman script writer at the National Film Board, and she was undaunted by the limitations placed on the women of her day. Not all intellectual and literary circles were inclined to open their inner sanctums to women. Madame Hébert refused to accept the imposition of silence that weighed on the women of her day, and took up her pen to write of her revolt against the fetters imposed on her gender. Her works and her character were extremely stimulating sources of inspiration for women. Anne Hébert created some very powerful characters, determined and independent women, free in their own way. She left her mark on a whole generation of women, by challenging the restricted roles society assigned to them and male-female relationships. In 1982, she was to become a role model for girls and women with a passion for literature, such as Gabrielle Roy, Marie-Claire Blais and Antonine Maillet, in receiving the highly prestigious Prix Femina literary award for her *In the Shadow of the Wind*. Her contribution to improving the living conditions of Canadian women is a huge one.

Anne Hébert's literary legacy is one of truth, sensitivity, strength and passion. She succeeded in reconciling conflicting values and shared her dreams with us.

When Pierre Nepveu spoke at the Bibliothèque nationale du Québec in January 1995, when presenting the Prix Gilles-Corbeil awarded by the Fondation Émile-Nelligan, he described the works of Anne Hébert as follows:

The literary works of Anne Hébert show us what is essential and noblest about romanticism: that reality has no life or meaning without passion, without that inner core which creates light and darkness, angels and demons.

Anne Hébert, you will remain forever present in our hearts, in our culture, in our history, in our spirit.

[English]

• (1440)

ROUTINE PROCEEDINGS

NISGA'A FINAL AGREEMENT AND APPENDICES NISGA'A NATION TAXATION AGREEMENT

TABLED

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have the honour to table the Nisga'a Final Agreement with appendices, and the Nisga'a Nation Taxation Agreement.

FISHERIES

REPORT OF COMMITTEE REQUESTING AUTHORIZATION
TO ENGAGE SERVICES AND TRAVEL PRESENTED

Hon. Gerald J. Comeau: Honourable senators, I have the honour to present the second report of the Standing Senate Committee on Fisheries, which requests that the committee be granted powers related to its examination of matters relating to the fishing industry.

Tuesday, February 8, 2000

The Standing Senate Committee on Fisheries has the honour to present its

SECOND REPORT

Your Committee, which was authorized by the Senate on December 7, 1999, to examine and report upon the matters relating to the fishing industry and to present its report no later than December 12, 2000 respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within Canada for the purpose of its examination.

The budget was considered by the Standing Senate Committee on Internal Economy, Budgets and Administration on Thursday, December 9, 1999. In its Second Report, the Committee noted that it is undertaking a review of the budgetary situation pertaining to Senate Committees, and recommended that no more than 6/12 of the funds be released until February 10, 2000. The report was adopted by the Senate on Tuesday, December 14, 1999.

Respectfully submitted,

GERALD J. COMEAU
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Comeau, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, February 9, 2000, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. tomorrow, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-202, to amend the Criminal Code (flight).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Hays, bill placed on the Orders of the Day for second reading on Thursday next, February 10, 2000.

FINANCING OF POST-SECONDARY EDUCATION

NOTICE OF INQUIRY

Hon. Norman K. Atkins: Honourable senators, I give notice that on Tuesday, February 15, 2000 I shall call the attention of the Senate to the financing of post-secondary education in Canada and particularly that portion of the financing that is borne by students, with a view to developing policies that will address and alleviate the debt load with which post-secondary students are being burdened in Canada.

QUESTION PERIOD

FOREIGN AFFAIRS

AUSTRIA—POSSIBLE RECALL OF AMBASSADOR IN RESPONSE TO APPOINTMENT OF JOERG HAIDER IN NEW GOVERNMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is directed to the Leader of the Government in the Senate. Could the minister advise whether the government has any intention of recalling the Canadian ambassador to Austria in order to assess the appropriate unique Canadian response to the participation of Joerg Haider and his Freedom Party in the new Austrian coalition government?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I have no information at this time that such an action is contemplated. However, I can certainly relay the question to the Minister of Foreign Affairs and International Trade and in due course reply to the honourable senator.

Senator Kinsella: Honourable senators, yesterday our Minister of Foreign Affairs, Mr. Axworthy, following meetings with Jaime Gama, the Foreign Minister for Portugal, and Christopher Patten, the Commissioner for External Affairs of the European Union, said that Canada will follow the European Union's lead on Austria.

When will the government take the lead on matters that are so clearly issues in which Canada, with its interest in and record on human rights, should be a leader rather than following the lead?

Senator Boudreau: Honourable senators, I have no doubt that the minister is in touch with the ambassador and the officials of the Canadian government in Austria. I am not aware of any specific actions that are planned or any specific comments that will be made publicly by the minister at this time.

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF
FUNDING—REQUEST FOR TABLING OF REFERENCE DOCUMENTS
USED BY PRIME MINISTER IN RESPONSE TO QUESTIONS

Hon. Marjory LeBreton: Honourable senators, it is a sad state of affairs when the government uses its resources and the resources of the bureaucracy to turn legitimate work of members of Parliament, whatever their political stripe, on behalf of their constituents into a dirty propaganda tool — “cheat sheets” as they were described in today’s *National Post*.

Would the Leader of the Government in the Senate undertake to obtain the documents and letters provided to the Prime Minister by the government leader in the other place and which the Prime Minister was using yesterday to avoid answering direct questions about the boondoggle at HRDC?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not specifically aware of what documents may have been used in the other place with respect to answers given during Question Period.

It is important that this matter be put into context, and the reference to a boondoggle places on me the responsibility to, at least, attempt to do that. I do so without demeaning in any way either the importance of an internal audit — and I stress the word “internal” — or the necessity of acting on the results of that internal audit.

However, I must point out to the honourable senator that Human Resources Development Canada operates programs in the range of \$3 billion. Seven of those programs, constituting \$1 billion, were subject to audit. The balance of \$2 billion were not.

• (1450)

Within that \$1-billion envelope some 459 files were selected at random by the auditors. Those 459 files represented expenditures of approximately \$200 million. We have now come down from \$3 billion to a range of about \$200 million. Of those 459 files, some 37 were flagged for further action. The value of the 37 flagged for further action was approximately \$33 million. Of the \$33 million that was flagged in the audit, approximately \$11 million to \$12 million has been dealt with to the satisfaction of the auditors. In fact, the balance is now being actively reviewed.

One must have this context in mind when discussing this whole issue.

Senator LeBreton: Honourable senators, the minister has done a good job of reading the talking points issued by the Prime Minister’s Office. In fact, they appeared in the newspaper the other day.

However, the minister did not answer my question. If he had watched Question Period yesterday, he would have seen that every time a member of the opposition asked a question on this

subject they did not receive an answer. Instead, members of the opposition had read to them letters they had legitimately placed on file. In effect, the government is creating a situation whereby members of Parliament are not able to do their work on behalf of their constituents.

I ask the minister again: Will he table those documents? In particular, will he obtain for senators the documents to which the Prime Minister referred, as well as all letters and documents in support of projects in Saint-Maurice written by or on behalf of Jean Chrétien, the MP for that riding?

Senator Boudreau: Honourable senators, the context in which I have attempted to set this matter is important. The real question is whether or not the facts that I have placed before the Senate are correct, regardless of where they originated.

I did not watch Question Period yesterday. Unfortunately, I was committed to other duties. However, I suspect that what the Prime Minister may have been attempting to do is similar to the effort that I should like to make here today; that is, to say that the seven programs that were subject to audit are good programs. They have provided jobs for Canadians.

It is speculation on my part, but perhaps the Prime Minister was attempting to make a point with which opposition members also agree, that these are good programs and that they have improved the lives of their constituents.

Senator LeBreton: Honourable senators, the Leader of the Government in the other place had a file folder full of all the correspondence written by members of Parliament in support of projects in their ridings. It is obvious that the government was able to produce these documents rapidly. At the same time, however, it is unable to account for millions and millions of dollars and the supporting papers.

Again, I ask the Leader of the Government in the Senate to table in this place those documents and, in particular, copies of all letters written in support of projects in the riding of Saint-Maurice by Member of Parliament Jean Chrétien. Surely, there must be a big tab of letters in that book under his name.

Senator Boudreau: Honourable senators, there probably is not one member of Parliament who has not written a letter in support of a project under one of these seven programs. I do not know if it is reasonable to ask for copies of all those letters.

We must come back to the context, which is that we are now dealing with audit objections and deficiencies. We are dealing with audit deficiencies which can range anywhere from failure to have a supporting receipt for an expense to anything else in the spectrum. The total under discussion has now been reduced to about \$20 million.

What may be interesting to the honourable senator is that when she looks at the 37 projects that were selected for audit discrepancies or deficiencies, she will see that 29 of the 37 — in fact, the vast majority of them — were in the Youth Employment Program, the Social Development Program or the Learning and

Literacy Program. Experience has shown that these organizations are not always as sophisticated as large companies might be. In many of these cases, they were not able to complete all the requirements as necessary. If the honourable senator were to take a balanced look at the situation and put it into context, she would see that 29 of those 37 cases were in those three programs, all of which are very good.

Senator LeBreton: Honourable senators, I should like to know in which of those categories Wiarton Willie falls.

Senator Boudreau: In HRDC, there are approximately 30,000 individual files or cases. There are some that all of us, I am sure, would wish had been dealt with in a more effective and efficient way. As a matter of fact, the auditors found 37 such files which have to be addressed. The minister has indicated that she has been addressing them and will continue to do so.

Let us not put these programs at risk. In my area of the country, as is the case for many senators on both sides of this place, these programs are extremely important and have done great work. We cannot put these programs at risk because of this particular issue.

Senator LeBreton: Honourable senators, the government has put them at risk by singling out members of Parliament who wrote legitimate letters to the department on behalf of their constituents. As a result, members of Parliament will never again want to support government programs in their ridings for fear that what they say will be used as part of the propaganda.

Senator Boudreau: Honourable senators, that may be true of some members of Parliament. However, I doubt it will be true of many. Honourable members have written in support of these programs, which is important and should continue if they believe that the program is a good one and that their constituents can benefit from it. I believe they will continue to write as they have in the past because they value these programs.

POVERTY

REQUEST FOR PROGRAMS TO ELIMINATE CONDITIONS

Hon. Douglas Roche: Honourable senators, my question is directed to the Leader of the Government in the Senate. Over the Christmas recess, two important reports dealing with social conditions in Canada were released. The first report was from the Progressive Conservative National Caucus Task Force on Poverty, and it contains many valuable recommendations which are premised on the following remarkable sentence:

Above all, we were humbled by the depth and magnitude of poverty in Canada...

The second report to which I refer is the Liberal task force on Western Canadian issues which also addresses poverty and in which it is stated:

The face of poverty is getting younger. Children living in poverty are more likely to end up in the sex and drug trade, drop out of school or become involved in crime.

In light of these two reports which cross party lines, I should like to ask this question of the minister: If we cannot end massive poverty in Canada with the present robust economy, with unemployment dropping, with the stock market roaring and government surpluses building, then when will we be able to do so?

• (1500)

Since there is strong support across party lines for action, will the government now make poverty eradication an all-out national priority?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question. It is an important, indeed pivotal, issue for government today. The response of government with respect to the program involving the homeless is one element of a renewed commitment to deal with our social problems in a way that will be positive and productive.

I had heard, as an aside, that perhaps some of the homeless might benefit from some of the HRDC programs now under discussion. That may be true. If you look at the statistics with respect to poverty among our unemployed youth and their levels of education and their corresponding opportunities for jobs, then you realize just how important programs of learning and literacy, and other social development programs, can be. It is a comprehensive problem.

Senator Di Nino: Remember the GST!

Senator Boudreau: I will certainly take the honourable senator's views to my colleagues in cabinet.

Senator Roche: I thank the honourable minister. The minister mentioned the homeless in his answer. I ask him if he has noted in the Liberal task force on Western Canada the statement that, in Edmonton, an estimated 42 per cent of the city's homeless are aboriginal. The task force says that urban aboriginal youth are particularly at risk, and so I ask the minister if, in the forthcoming budget, there will be some special attention to this serious problem.

Senator Boudreau: The honourable senator will, of course, know that I am not in a position to indicate specific measures that will be contained in the budget. However, he highlights a significant problem with urban aboriginal youth that exists across the country but is particularly evident in the western provinces, and in cities such as Winnipeg. While some of the programs that are available nationally — including the new program for the homeless — will be of assistance, there is a need to look to what more can be done. I am certainly supportive of the senator's views, and whenever the opportunity arises, I make that same point.

INDUSTRY

NOVA SCOTIA—

LOSS OF JOBS AT ROYAL BANK OFFICES IN HALIFAX

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate.

Halifax is losing 310 Royal Bank customer service and administrative support positions as part of that bank's national restructuring of service delivery. Those jobs are to be relocated in Toronto and Montreal this July, and will affect 340 staff members in two downtown Halifax locations. The bank claims that this shift is one of several initiatives to reduce costs by as much as \$500 million by the year 2001, reductions that are needed to ensure that the bank is positioned to resist expected foreign competition. The Royal Bank had originally planned to cut these costs in a merger with the Bank of Montreal in 1998, but that plan was quashed when the federal regulators refused to allow the merger.

My question is: If the merger of the Royal Bank and the Bank of Montreal was stopped by the federal government to, among other things, protect Canadian consumers, how do they propose to protect hundreds of consumers, who are also Royal Bank employees and who, as a direct result of government action, are now facing layoffs?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, that question presumes a connection that, had the merger gone ahead, there would be no closures and no job losses in Halifax.

Senator Oliver: That was not the premise.

Senator Boudreau: I have difficulty making that connection, to believe that that would be the case.

Senator Kinsella: Why?

Senator Boudreau: In fact, jobs are being lost, and it is a serious matter. I must say, however, that at the moment the economy in Halifax is very healthy. The unemployment rate is, I believe, at an all-time low. One would hope that any displaced employees who did not have an opportunity to seek employment with the bank elsewhere would have an opportunity to find new employment in Halifax in a similar field or in one that would be satisfactory for them.

Senator Oliver: For 340 people?

PURCHASE OF CANADA TRUST BY TORONTO DOMINION BANK—REQUEST FOR FIGURES ON RESULTANT LOSS OF JOBS

Hon. Consiglio Di Nino: Honourable senators, the Minister of Finance recently approved the amalgamation of the Toronto Dominion Bank and Canada Trust. That gives rise to a question related to the question asked by my colleague, Senator Oliver. There is no question that there will be major disruption, not only in jobs but also probably in services.

Could the Leader of the Government tell us, or at least find out for us, how many jobs the Finance Minister or the Finance Department estimated would be lost in the country as a result of this amalgamation? Did they address the issue of services to communities, in particular smaller communities that may not have adequate banking services after the amalgamation?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I can certainly make the inquiries requested by the honourable senator with respect to those particular items.

As I indicated in my previous answer, the best protection for any displaced employees as a result of such an amalgamation is a healthy economy that produces jobs that will offer them alternative employment. In fact, some companies had indicated that they would be interested in the Halifax area, but feared that the employment availability would not be such as to support the type of operation they had in mind.

What we are trying to do is create a healthy and vibrant economy and allow people choices, so that if a particular job disappears because of commercial activity, then they will have an opportunity to seek other employment.

However, with respect to the specific question the honourable senator asked, I will attempt to get that information.

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF FUNDS—RESPONSIBILITY OF MINISTER

Hon. Michael A. Meighen: Honourable senators, my question is also to the Leader of the Government in the Senate. It relates to the Prime Minister's seeming abandonment of the hallowed parliamentary principle of ministerial responsibility. Before so doing, however, I wish to ask the leader about some of the comments he made in response to the question put to him by Senator LeBreton. With the greatest respect, I do not think he answered her question.

Senator LeBreton: No, he did not.

Senator Meighen: The leader seems to take the view that this is a good program, and I will not argue that point, notwithstanding that it would appear that some recipients received more than they asked for, while others were not even asked for an accounting. Assuming these were all wonderful programs, does the Leader of the Government not agree that at least basic accounting and accountability standards should be respected? Whether the matter amounts to 37 programs or 357 programs, it is still public money that is at issue; if it is public money that is at issue, then we must adopt the strictest possible standards. That seems to have been forgotten in this debate, and it is up to us as parliamentarians, surely, to insist that the very strictest standards be adhered to. Clearly, that has not been the case.

There is one important thing I do not understand, and perhaps the leader can shed some light on it for me. This Prime Minister, who has endorsed in many statements over his parliamentary career the principle of ministerial accountability, appears now to be abandoning it and saying that the minister is not responsible.

• (1510)

I should like to know, if it is not the minister's responsibility, who is responsible? Perhaps the Leader of the Government could also assure me that that responsibility will not be foisted off onto the backs of some junior bureaucrats.

Some Hon. Senators: Hear, hear!

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am glad to hear that the senator supports those seven programs. At least, I think he supports them.

Senator Meighen: I did not say that. I said, "...even if they are good."

Senator Boudreau: Most people in the country would also support those programs.

I have said previously, in setting the context, that it is important for a responsible department to generate internal audits from time to time. This department has generated a number of internal audits over the years. There was an internal audit a couple of years ago and there was one in 1991, when another government was in office.

Senator Kinsella: What is your point?

Senator Boudreau: There has been, on a regular basis, a generation of internal audits. Action must be taken when the results of those internal audits come to the minister, who is ultimately responsible.

Senator Kinsella: Is the minister responsible or not?

Senator Boudreau: That responsibility is being discharged by this minister. After the internal audit came to her attention, which is now a public record, a program was put in place to deal with it. I am not confident that in 1991 there was such a program in place.

Senator Meighen: Honourable minister, if we are to take your view that this is a little accounting problem, what would you think of an outside independent private-sector auditor coming in to get to the bottom of this to reassure the Canadian public?

Some Hon. Senators: Hear, hear!

Senator Boudreau: Honourable senators, I would say that already one-third of the audited files have been remedied. The others will be dealt with quickly. The Prime Minister has made the commitment that if any monies were inappropriately granted, those funds will be repaid.

The issue goes beyond the present discussion. The goal is to improve the delivery of ongoing programs and to ensure that these problems are prevented in the future. Our response goes far beyond an audit.

Hon. W. David Angus: Honourable senators, the shocking mismanagement of funds at HRDC clearly demonstrates that this Liberal government has failed to be accountable to the people of Canada.

Some Hon. Senators: Hear, hear!

Senator Angus: Although the Transitional Jobs Fund was set up specifically to give ministerial discretion to encourage job creation in high unemployment regions, it has been used, apparently, as a political tool to pork-barrel certain ridings.

Some Hon. Senators: Shame!

Senator Angus: Honourable senators, the internal audits to date have only been samples, with a very low level of materiality, and have revealed that millions of dollars have been spent with, to say the least, improper processes in regard to record keeping, project tracking, using funds or completing application forms.

We are told that, in some cases, there are no application forms at all on record. That is totally unacceptable to the people of Canada, Mr. Minister.

My question to the Leader of the Government in the Senate is — and I do not envy him having to put his finger in this particular crumbling dike — in light of the serious nature of this issue, will the government provide full, unexpurgated, uninterrupted and complete audit rights to the Auditor General, and will it hand over all the files pertaining to the granting of all the funds to an independent external examiner?

Some Hon. Senators: Hear, hear!

Senator Boudreau: Honourable senators, again, it is important for all of us to reaffirm the value of these projects and the individual recipients. I have already gone through the list of 37 projects. When I look at the Canadian Paraplegic Association, I note that that is the type of program that is at risk as a result of irresponsible criticism.

Some Hon. Senators: Shame!

Senator Boudreau: The honourable senator has asked for an audit of all the files, all 30,000, by an independent auditor. I think they would be able to retire quite a few of their partners on that one, honourable senators, and I do not think that is likely to happen.

Senator Angus: As a final supplementary —

The Hon. the Speaker *pro tempore*: I am sorry, Senator Angus. You can come back to this tomorrow.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I would suggest that leave is in order, certainly, for Senator Angus to complete his series of questions and have responses from the leader.

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: I am sorry, but I heard “no” from some honourable senators. We must stick to the rules; that is something I wish to do.

I will now call Delayed Answers.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): No, no. Point of order.

Senator Angus: Cover-up!

Hon. John Lynch-Staunton (Leader of the Opposition): The unanimous decision of the Senate cannot be overturned by the Speaker.

Senator Kinsella: It is the practice of this house that senators run the Senate. The Deputy Leader of the Government has consented to hearing a supplementary question from Senator Angus. That is the consent of the house. That is the order of the house.

Senator Lynch-Staunton: It was unanimous.

Senator Taylor: Was it unanimous? I do not remember it being unanimous.

Senator Kinsella: Stand up, Senator Angus; ask your question.

The Hon. the Speaker *pro tempore*: Is there unanimous consent to hear Senator Angus?

Hon. Senators: Agreed.

Senator Angus: Honourable senators, in simple terms, I urge the Leader of the Government to please assure all honourable senators that senior officials or others who are under the direction of this government have not and will not destroy, doctor, alter, fudge, lose or otherwise forget about any documents whatsoever pertaining to the distribution of monies under the Transitional Jobs Fund.

Senator Boudreau: Honourable senators, I can give no more assurance of that than I can give for what the honourable senator did yesterday.

Senator Stratton: What about the citizens?

[Translation]

ORDERS OF THE DAY

NISGA'A FINAL AGREEMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill C-9, to give effect to the Nisga'a Final Agreement.

Hon. Aurélien Gill: Honourable senators, I would like to pick up the thread of my first speech. I know that my general remarks of last November moved a number of you and that was my intent. The final agreement with the Nisga'a gives me an opportunity to go further and to clarify my thoughts on the new partnerships we must envisage for our future.

For over half a century now in Canada we have been full of good intentions and fine words. In the early 1960's even, the federal government spoke through the Hawthorne-Tremblay commission report of its desire to encourage the economic independence of the First Nations quickly.

This was followed by the creation of many forums for consultation and thought. In the process, we inherited more or less suitable political structures. The provincial associations of the 1960's are a fine example. In order to have us meet its expectations in matters of discussions, the government wanted an interlocutor of its own stature; it created a mirror image of itself. Intentions were clear, the yoke of economic dependence had to be broken, and we had to fly with our own wings within a prosperous Canada.

The idea was good, but perhaps it was too simplistic, because economics and politics are linked — is that surprising? If, in political terms the proposals did not meet expectations, — remember, we were talking about taking responsibility — what was the issue? It was for us to administer our dependence.

We looked after our affairs by taking on the responsibilities designed and defined by the Department of Indian Affairs. How ironic! We put on moccasins that did not fit and a shirt that did not suit. Today we know very well that the idea was not promising. It maintained the system of band councils and gave the problem itself second wind. Indian band meant Indian reserve and that always comes down to promoting marginality.

That is obviously the crux of the matter. No economic or political advances can be made if our rights are not truly respected, if we are not in a position to exercise those rights. Our past secures our place in the future. It was not until the 1970s, after the tribulations of the 1969 white paper, that the concepts of territories and resources were raised. Since they were buried in our historic amnesia, we unearthed them.

The Nisga'a Nation, like so many other First Nations, played a large role in these efforts to turn back the tide, to show that we could not hope to survive and certainly not to develop if we were denied access to our ancestral lands and resources. The Nisga'a used the legal system to breathe new life into their age-old claims.

For to speak of our rights is to speak of treaties, treaties that have been forgotten, ignored, set aside, and never signed, as was the case for a great part of what is now British Columbia, as was the case for the greater part of the province of Quebec, before the agreements signed with the Cree, the Inuit and the Naskapi. To speak of our ancestral rights, whose existence is now recognized in the Canadian Constitution, is to speak of our future.

The great injustices we suffered have been addressed in the courts. Since *Calder* in 1973, the Supreme Court of Canada has continued to promote the cause of the First Nations.

We all agree that the issue is complex and difficult to resolve in law. I would like to mention in passing the contribution made by Mr. Justice Antonio Lamer who in effect paved the way in the Canadian justice system with respect to the First Nations.

We are not there yet, but we are on the right track. Our ancestral rights have been recognized in principle. I say in principle, because they must still be given a modern form to carry them into the future. Once again, and this bears repeating, too many Canadians are reacting badly to what is in fact an historic achievement.

Finally, the Nisga'a agreement includes all the minimum requirements to allow a nation to be responsible for its future. This agreement should serve as a model. I insist on that point. The agreement must be presented to all Canadians, not only in its best light, but also as an example, because the opponents to the agreement are actually opposed to its strongest qualities. Some say the agreement is unconstitutional because it creates a new level of government in the political structure, something which requires a constitutional change. Does our Constitution not recognize the inherent rights of aboriginal people? Do our collective rights not imply that we enjoy self-government? What is the point of having rights if we cannot exert them?

In other words, the Nisga'a agreement is the ultimate test of our good intentions. Generally speaking, the country would want First Nations to be themselves and to fly on their own. But when the time comes for them to take flight, they are prevented from spreading their wings. People complain about turbulence, about the space being taken. The Nisga'a nation will indeed have authority over a territory that it has not stolen. A community cannot govern itself on the basis of abstract notions of law. Resources, institutions, space and an identity are all required. This is where the critical notion of sharing takes on its full

meaning. Canadians must realize that a sharing of powers is looming on the horizon.

The Nisga'a nation is finally coming back home, to a land that it had been stripped of, a land where its people had become strangers, like so many other First Nations in Canada, and it will now have control in the form of a just and normal presence which will give it back its sense of identity. This is restitution, no less. The options are so well defined that it is now possible to think that the Nisga'a will be able to take stock of their own resources and proceed to tax the wealth that will be generated. Who could oppose this true enfranchisement? A yoke has been broken and this is the way to break a vicious circle.

Some oppose the Nisga'a agreement on the ground that it solves only one of the 40 or so claims in British Columbia alone. This can be scary for Canadians. Yet, there are reasons for them to be reassured. Creating a form of self-government whose structure takes into account existing traditions, concretely recognizing ancestral territories, developing new skills, taking stock of the natural resources that will help generate wealth, promoting "identity-based" conservation measures through the normal and minimum institutions that allow a community to control its destiny, maintaining bridges based on cooperation and sharing, these are all reasons for us to be reassured.

In the Innu language, we would call the Nisga'a "kanikantet", or scouts. Their path is well marked. If we make good use of it, their accomplishment will open up better horizons for us.

However, do we know how to make good use of it? That seems difficult. The real opposition to the Nisga'a agreement is the outcome of a great historic insensitivity, as I said in my first speech. Many Canadians react badly and with prejudice, without giving thought to the treaties and to rights, without taking into account the centuries of injustices.

The Nisga'a agreement seems disturbing, surprising, a thorn in the side of our national tranquillity. As long as this misunderstanding persists, no degree of maturity can be attained in this fundamental debate. The clinching argument makes a pretext of raising the problem of ethnic governments, claiming that Canada must not create political structures that are based on the cultural distinction of a given community. I agree that the issue does arise, and that the principle involved is a touchy one. However, can it be raised with some care? To deny us the right to exist politically based on our distinct cultural qualities puts an end to the debate on our aspirations. To the best of my knowledge, to the best of anyone's knowledge, the Nisga'a are Nisga'a, and their claims have always reflected their identity.

• (1530)

If there is no place in tomorrow's Canada for the First Nations as a specific culture, let it be clearly stated. It needs to be said, and then the destruction of what we are and what we have been can continue. Let there be no more trumpeting of cultural diversity of the founding nations if no one has the desire to acknowledge that diversity with political fact.

Our future governments will not be "ethnic"; they will be the reflection of what we are entitled to be. This involves sharing, partnership. The more we are what we are, the more openness there will be between us. A distinct identity does not require the cultures to be separated, in fact the opposite would be the case. A culture that is comfortable with itself can be open with others. It attracts interest. Its "ethnicity" is a positive reality.

I have already stressed urgency. Now I shall focus on creativity, novelty, imagination. We have all been in error in acting as if Canada were a completed country. It is a work in progress, it is a challenge.

In order to be successful, we must innovate, imagine new ways of belonging to it. Being a Canadian should not be an abstract concept. It will be something that is lived out, experienced and given expression to. We have much to give this country, but will we ever attain our rightful place?

Law alone is not enough. A fair resolution to the First Nations' claims seems to be the last chance to drive away all our old demons. I say this out loud, knowing that it makes us uncomfortable. The Canadian identity is a work in progress. Even today. History has shown that people have always wanted to reduce this identity to a sort of homogeneity that does not exist.

When it comes to cultural diversity, Canada must leave behind its apathy. Imagination is called for. We must get rid of old Loyalist colonial tendencies and fleur de lys nationalism.

No, Canada is neither English nor French. Biculturalism is an irrelevant concept which only serves to inflame old grudges that unfortunately still exist. If an original Canadian culture finally surfaces one day, it will be a synthesis of the best features of the various identities and cultures that have been a part of this country's existence for over 500 years.

We will finally have overcome our old visions, visions that pitted one culture against another. We are at the first stage of this history. We are entitled to promote and defend our identity and receive the respect that goes with it. We all know that the Canada of tomorrow will have to be inclusive and celebrate its diversity, that this diversity will have to be evident in the political arena, and that, like Quebec and Canada's francophones, we, too, want to control our own destiny.

How could we not celebrate the Nisga'a Final Agreement as an original avenue in our progress? There is a necessary link between economic responsibility and the development of peoples. How can we ignore the huge step forward taken by the Nisga'a and how could we possibly not celebrate that step?

Across the country, another agreement is in the works, an agreement that is close to being what we all want. If all goes as planned, and after a very long journey, the Montagnais Innu from the Saguenay-Lac-Saint-Jean area, the Issipit from the

Charlevoix-Tadoussac region and the Manicouagan Betsiamite will finally have control over their own destiny. Let us salute this progress and these achievements because they are fundamental.

Wherever promising negotiations are underway and foretell of partnerships and dignity, we must delight and encourage each other. Likewise, considerable attention must be paid to our more northerly brothers, the Innu of Labrador and Quebec's North Shore.

These Innu have been very patient. Until yesterday, they had every reason to be concerned about their future, because for too long they have been ignored in development projects. Remember the NATO plans for low altitude flights. Did the Governments of Quebec and Newfoundland not forget them again in their joint planning of the Churchill River hydroelectric development?

In 1999, did these governments not again assume that the development of Labrador did not really concern the Innu, even misunderstanding the simple map of the ancestral territories of the Montagnais Innu?

Agreements are needed to promote responsibilities and sharing, because without them and without responsible native government, without proper recognition of the space needed and of the partnership in the sharing, the First Nations will be humiliated and systematically ignored, today as yesterday.

This ignorance and these humiliations are a thing of the past in a self-respecting Canada. The new agreements are so many cracks in the dams of silence and disdain. The current will move and flow with these cracks. We must hope that we may be fully committed to this development process.

• (1540)

Yes, we must share the land and the resources. We must share in order to enrich ourselves and also to make Canada grow. Only then will the majority of Canadians stop perceiving these agreements as concessions, as losses, as follies that threaten their integrity.

I ask: Have we invested enough to adequately inform Canadians on the true nature of these agreements? The answer is obvious. No, we have not done enough and the debate suffers from a dangerous carelessness, because what we are hearing definitely reflects a painful lack of information.

Some say that we are benefiting from favours, from privileges and that these agreements are basically meaningless, except for the money that we get from them. Others think that we are snatching rights to resources. We look like highway robbers in the eye of the public, which perceives us as a threat and as leeches. No, we are not investing enough to show the absolutely positive side of these new agreements. They are not and they may never be perfect, but we must all work together to improve and multiply them.

These agreements represent a real hope for all. This is how they must be presented to the general public. Again, I congratulate the Nisga'a Nation for its tenacity and courage, and also all those who worked so that this agreement could be reached. In spite of the obstacles and difficulties, let us hope that we can achieve at the national level what was achieved in this case, because tomorrow's Canada will not be built at the expense of these peoples and cultures. It will not be built by humiliating its numerous founding nations. Let us ensure that we can all be proud of being Canadians, while also being proud of who we are and of belonging to this new circle.

[English]

Hon. Nicholas W. Taylor: Honourable senators, I wonder if the Honourable Senator Gill would permit a question.

Senator Gill: Yes.

Senator Taylor: Part of a small band — and I cannot remember the exact name of it right now — exists within the traditional land of the Nisga'a. They were upset about not being factored into the equation. I understand that some efforts have been made to handle the problem. Is the honourable senator aware of this band and what is being done to satisfy their concerns?

[Translation]

Senator Gill: Honourable senators, I am aware of certain things, but not of all the details. When an agreement is signed, very clearly there are some problems relating to the overlaps of territory between the nations. As far as I know, there has always been a possibility of these matters being settled eventually. As can be clearly seen, the more signed agreements there are, the more we will have to deal with this type of situation. Until now, certain approaches have been found to get people to discuss their situation.

[English]

On motion of Senator Kinsella, for Senator St. Germain, debate adjourned.

NATIONAL DEFENCE ACT DNA IDENTIFICATION ACT CRIMINAL CODE

REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Legal and Constitutional Affairs (Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code, with amendments) presented in the Senate on December 16, 1999.

Hon. Lorna Milne moved the adoption of the report.

She said: Honourable senators, as Chair of your Standing Senate Committee on Legal and Constitutional Affairs, I have the honour of speaking to the report on Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code.

The introduction of this promised legislation, Bill S-10, fulfills the commitment made by the Solicitor General to the Legal and Constitutional Affairs Committee in December 1998. It is based on the legislative recommendations made by the committee in our sixteenth report to the Senate on Bill C-3, the DNA Identification Act of the previous session of Parliament. The bill reflects our recommendations by making several changes to the National Defence Act, the DNA Identification Act and the Criminal Code.

Bill S-10 brings within the ambit of the national DNA data bank profiles of designated offenders who are subject to the military justice system. It also amends the Criminal Code to extend the prohibition against unauthorized use of bodily substances and DNA profiles to include those obtained under the National Defence Act. Bill S-10 expands the "principles" set out in section 4 to make absolutely clear that DNA profiles and bodily substances are to be used "only for law enforcement purposes in accordance with this Act, and not for any unauthorized purpose." This is in response to the committee's previous concerns about potential misuse of DNA profiles.

Bill S-10 makes provision for new accountability measures that will enable Parliament to monitor the ongoing operation of the data bank. It amends the DNA Act to give the Senate and the House of Commons committees the same authority to conduct the statutory five-year review of the legislation. In addition, the bill requires the Commissioner of the RCMP to submit an annual report to the Solicitor General on the operations of the DNA data bank, which will be tabled by the Solicitor General in both Houses of Parliament.

During the committee hearings on Bill S-10, we suggested that this report should include a review of current DNA case law. In a letter addressed to the committee through myself on December 7, 1999, the Solicitor General accepted our recommendation and agreed to amend the draft regulations accompanying the bill, which, by the way, were also presented to the committee, to specify that the RCMP Commissioner's annual report will contain a review of the DNA case law over the preceding year.

Honourable senators, Bill S-10 is reported back with two amendments. The amendments were presented to the committee by the Solicitor General following a meeting of federal, provincial and territorial heads of prosecution. These amendments are considered necessary for the purpose of verifying the identity of a person specified in a DNA data bank order or authorization. The amendments to the National Defence Act and to the Criminal Code authorize peace officers or persons acting under their direction to take fingerprints at the same time that samples of bodily substances are collected for the data bank from persons convicted of a designated offence.

Initially, the committee had reservations about the privacy implications of obtaining fingerprints at the same time as samples of bodily substances are collected for the DNA data bank. At the request of the committee, I sent the proposals to Mr. Bruce Phillips, the Privacy Commissioner of Canada, for study. While Mr. Phillips did express some concerns over what would happen to the fingerprints once they had been taken, he recognized and appreciated the need to protect the integrity of the national DNA data bank. However, he did share the committee's concern about obtaining fingerprints where the Crown has proceeded by way of summary conviction, as in cases where there is no authority to take prints under the Identification of Criminals Act or there are no existing fingerprints on file with which to compare. Like the committee, Mr. Phillips was also concerned about the validity of obtaining fingerprints for the seven "specifically military" secondary military offences, where as well there is currently no authority to take fingerprints for these offences.

The officials responded to these concerns on December 15, 1999, by explaining the process under which the fingerprints for summary conviction offences would be handled. As these fingerprints are taken solely for the purpose of DNA sampling, the fingerprints will be treated the same as pardoned records. Only in extreme cases will the information be retained, and then only in an in-house data base that assigns a number to the information which will be referenced in an in-house query. The only instance in which someone could get a name would be if they themselves are privileged operators who manage the pardoned criminal records information. Again, the information would not be made available to the entire law enforcement community.

Honourable senators, Bill S-10 is a testimony to the diligent and thorough work of your standing committee. I thank the Solicitor General for recognizing our work and our contribution to the legislative process by fulfilling his promise to enact our recommendations before the coming into force of Bill C-3, the DNA Identification Act. Bill S-10 is a reflection of our attention to detail and continued commitment to both the protection of Canadians' privacy and their right to public safety.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Milne, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

• (1540)

ROYAL ASSENT BILL

SECOND READING--DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, for the second reading of Bill S-7, respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.

Hon. Marie-Paule Poulin: Honourable senators, I am adding my voice to the debate in which we are engaged relating to Bill S-7, which deals with Royal Assent as a means of enacting legislation in order to render it enforceable. As honourable senators are aware, this matter has been submitted to the Senate on a number of occasions.

My interest in this matter arises out of the relevant reflections expressed during this debate and those before it, particularly the judicious intervention by the Honourable Royce Frith in May 1983, and the McGrath commission report two years later.

There have been other attempts from time to time to amend the process of Royal Assent. I have familiarized myself with all of these in an attempt to gain a clear understanding of the reasons set forth to justify a change and the possible consequences of the change proposed in Bill S-7.

I will begin by making it clear that I see Royal Assent as an opportunity to show the results of parliamentary procedure in general, the legislative work of parliamentarians, and that of the Senate in particular.

[English]

Honourable senators, a number of words come to mind, such as visibility, communications, relevance, accessibility, content and education. I see here a chance to optimize the work of the Senate, not cloister it with some behind-closed-doors sign-off process. Indeed, as several honourable senators are saying publicly and privately, we should be looking at ways to make the Senate more visible.

Formal Royal Assent, properly communicated to the public, would serve to inform Canadians not only about their parliamentary institutions, but also about the laws being passed that affect them. Royal Assent could, if planned and managed in a communicable fashion, allow parliamentarians to bring out the relevancy and the timeliness of their work as legislators. If that means engaging in ceremony, so be it.

Perhaps one of the tragedies of today is that we do not have enough ceremonies to remind us of who we are and what we do. Ceremonies, no matter how humble or extravagant, prod us into reflection. On summer mornings, we can witness crowds gathering on Parliament Hill to watch the colourful, ceremonial changing of the guards. Is this merely a tourist spectacle? It is more. It is a way of presenting to the world a tiny part of Canada.

Honourable senators, in reviewing what has been said in this chamber in regard to Royal Assent, it is clear that no one has advocated usurping the legislative process. This is a process that binds together both Houses of Parliament and the sovereign, a blending of institutions which has withstood the litmus test of governance.

Honourable senators, the issue before us pits expediency against tradition — changing the rules a little bit so that tradition remains a legitimate exercise but the process is made more convenient. I understand this to be the heart of the issue.

Senator Lynch-Staunton, through this bill, has endeavoured to accomplish a balanced duality by retaining the ceremonial aspect while providing for significantly less formal procedure. While appreciating his motives — which I remind you, honourable senators, are shared by all senators on both sides of this chamber — I fear that the proposal in Bill S-7 for written declarations would become the norm, with the current traditional ceremony falling by the wayside. That is, we would end up replacing a well-established tradition with an informal office procedure, and we would lose what is perhaps a golden opportunity to inform Canadians about the machinery of the parliamentary institution and its vital legislative role on behalf of Canadians. Only by giving Canadians the opportunity to see — and I say, “to see” — the relevancy of the upper chamber can we expect people to respect the Senate.

[Translation]

Honourable senators, we know that Canada is the only Commonwealth country to have retained the ceremony of Royal Assent in the presence of the Governor General or a judge of the Supreme Court, acting as Deputy Governor General.

Even though we usually turn to a Puisne Judge for Royal Assent, the fact of requiring that a senior member of the magistrature participate, regardless of his impartiality, entails a risk: one day, this judge will perhaps have to hand down a decision on the validity of a legislative measure to which he will himself have given Royal Assent.

It would perhaps be advisable for those responsible for analysing Bill S-7 in depth, in committee, to explore options for conferring this responsibility on other august Canadians who are not active participants in the judicial process. A list of distinguished Canadians qualified to perform duties similar to those of the lords commissioner in England could be drawn up.

Let us remember that during the six years from 1993 to 1998 inclusive, there were 46 Royal Assent ceremonies. The Governor General was present at only five of them. These figures are proof

to some that the official ceremony of Royal Assent is no longer worth the trouble.

In other words, if the representative of the Queen cannot, for one reason or another, play an active and regular role in the legislative process, why should this duty fall to someone else? Why not adopt an entirely different protocol?

The Governor General's rate of participation could be justification for going even further than the proposal in Bill S-7; by that I mean the elimination pure and simple of the practice, along the lines of what was done in Australia.

That is why I can understand the feelings of those who wish to simplify Royal Assent and create other means of achieving the same ends, such as those proposed in the bill introduced by our honourable colleague.

[English]

• (1600)

I wonder whether, honourable senators, if expediency — or convenience, if you prefer — were the only consideration, I would readily embrace Bill S-7. Logic compels me to weigh the other side of the debate for, as you may be gathering from my remarks about relevance, communication, accessibility, visibility, and education, I am concerned by the steady erosion of our traditions and symbols whose disappearance seem more to do with expediency and political correctness than serving to remind all of us as Canadians of who we are.

In this regard, I view as quite valid the comments of the Monarchist League and a number of honourable colleagues such as Senator Cools, Senator Grafstein, Senator Nolin and Senator Milne. In a presentation to the Standing Senate Committee on Legal and Constitutional Affairs the league decried “changing current monarchical symbolism to republican symbolism” and consigning the role of Queen-in-Parliament “to a secretarial act performed at a distant functional desk”.

Senator Grafstein and Senator Nolin have, if I interpret their remarks correctly, touched upon the fact that Royal Assent is a major constitutional duty of the Governor General, suggesting to us that the Queen's representatives should be playing a more active role in the affairs of Parliament, not less. Indeed, Senator Milne has referred to Royal Assent as “a fine piece of theatre and more Canadians should know about it.” Senator Cools astutely remarked that written declarations “will further distance and obscure the Sovereign's role and existence in the public business of our nation.”

Honourable senators, we are, in discussing this bill, in a state where the heart and mind compete. The logical mind tells us there is a more efficient way of doing business, but the heart tugs toward an act of symbolism that reaches back across the centuries. It is our heritage and one should not dispense with it hastily. It is fine and well to say that because Henry VIII changed the rules in 1541 by appointing lords commissioners to grant assent on behalf of the sovereign, so can we. Henry's motives

were propelled not by a desire to facilitate the democratic machinery but to spare himself the indignity of assenting to a bill effectively calculated to dispatch his wife, Catherine, to the chopping block for high treason. For that single action by a king, for personal reasons known but best not repeated in this chamber, the practice of appointing commissioners became so increasingly common that today it is normal procedure.

These events demonstrate the principle of the exception becoming the rule. This could ultimately be the case with written declarations, despite provisions to hold once yearly Royal Assent in the presence of the Governor General. Bill S-7 would be the thin edge of the wedge that would, in time, cleave symbolism from our parliamentary process.

[Translation]

Honourable senators, I should like to make a few more comments which I feel are relevant to this debate.

In England, it is now common practice to delegate to Lord Commissioners the task of giving assent to acts on behalf of Her Majesty. This usually takes place at Buckingham Palace and is, in my opinion, a ceremonial event.

A distinction must also be made between Canada and Australia. Whereas Canada has maintained the traditional Royal Assent ceremony since Confederation, Australia stopped using it in the early years of its history. The two countries have therefore developed different protocols. In spite of having eliminated the Royal Assent ceremony, Australians voted to remain a monarchy, in a referendum held last November.

Canada is a very young country which welcomes thousands of immigrants every year, and their cultures, their rules of law, their languages and even their alphabets may be different.

What is striking is that we assume that those who cross our borders are invited to take advantage of the abundance that we enjoy here in Canada. By this I mean that we share not only our standard of living, but also our parliamentary history, our culture and our institutions.

For many newcomers, these elements provide the stability that was lacking in their country of origin. The question then becomes: Are our parliamentary traditions and democracy, and also the symbolic ceremonies involved, not worth being better communicated to the public?

If so, and I firmly believe this to be the case, should we not use all the modern means available to better inform the public of new legislation, updates and procedures?

Could we not do everything possible to make our values and our traditions known through our symbols and ceremonies? Is it not our responsibility as parliamentarians to be more visible, to use available electronic communication to broadcast this final stage of the legislative process? Yes, broadcasting the ceremony would force us to rethink it.

[English]

Honourable senators, rather than concealing our customs and traditions like Royal Assent, we should be showcasing them. Like justice, democracy needs to be seen to be done. Rather than making written declarations the norm and the Royal Assent ceremony the exception, I wonder whether the opposite might not be a more attractive proposition. In other words, accentuate the role of the Governor General while limiting written declarations to rare or occasional exceptions. For a time, at least, I suspect that written declarations will be necessary now and then when the two houses are located in different buildings during renovations of Centre Block. This I accept as a practical arrangement. However, I think that we could lean toward a more visible function for Parliament and for the Governor General herself. Is proclaiming laws not one of the primary responsibilities of the Governor General? As the sovereign's proxy, the individual holding that esteemed office should be visible regularly in the affairs of Parliament in Canada.

A few months ago, a suggestion was circulated that days dedicated for Royal Assent be fixed when both Houses are sitting; another option for review by the appropriate Senate committee.

[Translation]

Honourable senators; during the course of my remarks, I have argued in favour of greater promotion of the customs and symbols of our country and called for greater transparency in the legislative process. I therefore find myself on the side of those who think that, to make Parliament more relevant in the eyes of Canadians, the ceremony of Royal Assent could even, on occasion, be held in other regions of the country. The Royal Assent given to the bill that created Nunavut would have justified holding the ceremony elsewhere than in Ottawa. This event has already occurred, but it would have been interesting to highlight the creation of a new territory in this way. It would have drawn the attention of Canadians to a historic change in the country.

Honourable senators, we owe thanks to Senator Lynch-Staunton. He drew the attention of our house to the particular conditions of our parliamentary procedure. If our collective goal is to ensure rapprochement between the work of Parliament and life in Canada, Bill S-7 gives us an opportunity to do so. Let us take time to look at the way we function. Let us become more visible and more accessible. And, if I may repeat myself, like justice, democracy must be seen to be done.

[English]

• (1610)

Hon. Sharon Carstairs: Honourable senators, I thank Senator Poulin for her words. One of the great strengths of private members' bills is that we can have differences of opinion about them — and I certainly have a difference of opinion with Senator Poulin on this particular issue. I like Senator Lynch-Staunton's bill. Its passage would be a positive addition to the way we do business in this chamber and in Parliament as a whole. I should like to explain why I say that.

My very first experience with Royal Assent was not in the Senate of Canada but in the legislature of the Province of Manitoba. I think it is true of most provincial legislatures that most of the legislation is not given third reading support until close to the end of a particular session. That is because sessions tend to be more compact and because there is usually a new Speech from the Throne each and every year.

The experience to which I refer was at a time when we were coming to the end of my first session of the legislature. At that time, I noticed some interesting things happening in the chamber. For example, I noticed that members on both sides were gathering little bits of paper on their desks. As a former teacher, I have to tell honourable senators that they took on the appearance of potential spitballs.

As we came to the end of the session of the legislature, the Lieutenant-Governor had been left waiting outside the chamber for about five hours. He entered the chamber in order to give Royal Assent to the legislation. As he left the chamber, to my absolute amazement I recognized what the paper was about to be used for. It had been a tradition in the Manitoba legislature that immediately following Royal Assent there would be a paper fight on the floor of the legislature.

All of a sudden, paper started to fly on both sides of the chamber. I was given to understand that at one point even copies of Hansard flew from one side of the chamber to the other. That practice came to an abrupt halt when one of the press gallery representatives was hit in the eye with a piece of Hansard. Thus, it became an unspoken rule that copies of Hansard would no longer fly following the Royal Assent ceremony.

Several years later, while I was leader of the party, we were fortunate enough to have a sufficient number of members elected to allow us to become the Official Opposition. You must remember, honourable senators, that I was a school teacher with some 20 years of experience. I made it clear to my caucus members that there would be no paper fights in the Manitoba legislature. I understand that the tradition of throwing paper in the Manitoba chamber has now come to a halt. Perhaps that was my most significant contribution to the decorum of the Manitoba legislature. In any event, that led me to a more serious debate and discussion. That is to say, when is a ceremony important and when does it do the kinds of things that Senator Poulin spoke about so eloquently this afternoon? It led me to consider the question of when a ceremony has become, perhaps, redundant and unnecessary.

One of the aspects that I like most about Senator Lynch-Staunton's bill is that he would not get rid of Royal Assent in its entirety, which of course has happened in the United Kingdom, Australia and every other Commonwealth country. The bill before us calls for the ceremony to be performed once a year. I hope that it would become a far more significant ceremony as a result. We would no longer have the House of Commons being represented by members of the government side only, something that we have had consistently in my five and one-half years in this chamber. We have often had Royal Assent

without the Speaker of the House of Commons. Occasionally, deputy speakers appear.

To me, that does more to harm the democratic process than anything else. If it is held in such disdain by members of the House of Commons that they do not think they have to come, then that tells me that it is a ceremony that has, perhaps, gone past its time in terms of making a significant contribution to the body politic and, more particularly, to our democratic system.

I have serious concerns about Supreme Court Justices appearing as Deputy Governors General. Frankly, I do not believe they should be here giving Royal Assent to bills. At some time in the future, they may have to make judgments in cases that may involve Acts of Parliament to which they have given Royal Assent. I think there is a conflict of interest created by being here to sign off in a Royal Assent ceremony as the Deputy of the Governor General and then to sit in judgment of that very piece of legislation.

I agree entirely with Senator Poulin, when she says that we should be looking at alternatives to those who serve now as Deputy Governors General. If we are to continue with these ceremonies, there are many notable members of the Order of Canada who could replace the Governor General. There may be others who would also make good replacements.

I think honourable senators should be aware of a court case based on this particular issue, which will be heard in Ontario over the next few months. It concerns whether the situation to which I refer creates a conflict of interest.

When representatives of the Monarchist League of Canada appeared before the Legal and Constitutional Affairs Committee, which was considering this bill in another life, I put this question to John Aimers, who is the head of the league: Should we be more Catholic than the Pope? In view of the fact that the mother of Parliaments, Westminster, had done away with the ceremony some 30 years before, I asked if we in Canada should still be doing it. I asked why other Commonwealth nations had chosen to follow another route. His answer was that we should be more Catholic than the Pope, and that it is important for this kind of symbolism to remain alive and well in our nation.

I love ceremonies. I think they are good for all of us. They give us a sense of our history. They give us a sense of the importance of our institutions. However, I think ceremonies only have value and purpose if they are ceremonies that everyone takes to be of great importance and significance.

With the greatest respect to each and every one of us here, I do not think the Royal Assent ceremony takes on that kind of purpose and importance when the government whip is forced to go around to ensure that there is a quorum. Technically, a quorum is not needed for Royal Assent, but it is needed for the adjournment. You cannot adjourn until after Royal Assent, so you must have a quorum. All of us have been asked by our whip, "Will you be here for Royal Assent," in order to guarantee that the numbers will be here.

• (1620)

Honourable senators, if each and every one of us thinks the ceremony is so very important, why are we not all here for the Royal Assent ceremony? My sense is that we do not consider it the most important part of the process. We consider the third reading debate, or the final third reading vote if it is an issue upon which there is disagreement, to be the most important part of the process, not the Royal Assent process.

I should like to see the Royal Assent envisaged in Senator Lynch-Staunton's bill become a ceremony of grand occasion. The Governor General is here, members of the House of Commons are present in great numbers, and the number of senators present in this chamber is high. That is the direction in which we should be going. I think we should be moving into a new era.

Hon. Jeremiah S. Grafstein: Honourable senators, I had not intended to participate in the debate but the eloquence of both Senator Poulin and former deputy leader Senator Carstairs, suggests to me that, perhaps, we collectively have forgotten the essence of Royal Assent.

The essence of Royal Assent is not the ceremony. The ceremony marks a special occasion, but the essence of Royal Assent is based on the well-known principle that ignorance of the law is no defence, so that when laws are passed, a common citizen cannot say, "I did not know about that law." As a question of law, each citizen in Canada is required to know every law. Lack of that knowledge is not, in any way, shape or form, a defence if that law is breached by an individual citizen, either by neglect or by omission. The essence of the law was that when Parliament had concluded its deliberations, the monarch would assent to the law in order to bring to the citizens' attention that a law had been passed and that knowledge should not be denied. I understand the arguments made by Senator Poulin and others, but that principle is the essence of Royal Assent.

By obsolescence and by practice, we have relegated this ceremony to a place and a time that is inconvenient, namely, Thursday evening, when it is not convenient for senators who travel to the West or to the East to attend. We have trashed that principle and now some are arguing against the trashing of the principle. In effect, we have, said that because it is obsolete, because people do not attend and because the other place is not here, it is a moot principle. However, the principle remains that ignorance of the law is no defence. Hence, when we pour out thousands of pages of law without the public knowing that we have passed that law, it strikes me as being an abrogation of our responsibilities as parliamentarians. Why are we here to debate these matters, to educate the public about the changes in the law.

Once we have concluded the debate, to relegate it to the *Canada Gazette*, which no one reads, is to dismiss the hard work of both Houses. With Royal Assent, Her Majesty comes to Parliament and accepts the law, from the Commons and from the Lords, in order to demonstrate to the citizens that there is a new and different law by which they are to be bound. Although we

have failed in the ceremony and in the practice, that should not permit us to make the practice even worse.

There are many good ways of educating the public in the laws that we pass. The Royal Assent ceremony is one great opportunity to do so. I am in favour of renovating the practice, not of relegating it to the dustbin of history.

Hon. Anne C. Cools: Honourable senators, I have a question which I should like to put to the Honourable Senator Carstairs. My question relates to her narration regarding John Aimers' remarks about being more Catholic than the Pope.

An Hon. Senator: Order!

Senator Cools: Honourable senators, I wanted to ask a question of the Honourable Senator Carstairs and I was quietly waiting my turn, as I always do.

Senator Nolin: You must ask for permission first.

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable Senator Cools, do you wish to ask for the consent of the Senate to pose a question to the second last speaker?

Senator Cools: Yes, honourable senators. I seek clarification on a statement that Senator Carstairs made, which I feel is extremely relevant to the debate.

The Hon. the Acting Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: Please proceed, Senator Cools.

Senator Cools: Honourable senators, Senator Carstairs has raised an extremely important question. I commend the honourable senator for ending what I thought was unnecessary and unparliamentary behaviour in the Manitoba legislature. However, they are a legislature, not Parliament, so perhaps they could be overlooked at that stage.

The proper solution here is to —

Senator Lynch-Staunton: You are supposed to ask a question, not make a speech. You will not get leave again if you do that.

Senator Cools: Honourable senators, I am coming to my question. Perhaps the honourable senator is in a hurry today.

Senator Lynch-Staunton: Just ask the question.

Senator Cools: I do have leave, senator, and I am not in the habit of taking direction from you.

Senator Lynch-Staunton: Take direction from the Senate, then.

Senator Cools: Honourable senators, Senator Carstairs has suggested that, perhaps, either the Senate of Canada or some senators are attempting to be a bit more Catholic than the Pope. I understand her concern and where she is coming from. However, I should like the honourable senator to clarify before us whether or not the situation she has described — that is, the situation in England — is not unlike the situation in Canada. In point of fact, in England the Queen's major representative, the Lord Chancellor —

Some Hon. Senators: Question!

Senator Cools: — sits in the House of Lords. Consequently, the situation is not quite analogous, because the Lord Chancellor, as Senator Carstairs would know, is the Queen's major representative, so named because he has sufficient power to cancel the Queen's commissions and the Queen's patents. I am asking whether or not she considers her analogy a fair one.

Senator Carstairs: Honourable senators, let me be clear. The analogy had nothing to do with the situation that was occurring in the United Kingdom with respect to the Chancellor or the Exchequer or the Lord High Chancellor. It is concerned with whether a ceremony we have in Canada — and one which they no longer have in Great Britain — is necessary.

• (1630)

In other words, the question is whether Royal Assent is perhaps an unnecessary symbolic act in Canada, when, for the most part — but not entirely, because we are, after all, a federal system and they are not — our traditions come from the mother Parliament, Westminster, and the mother Parliament has decided that that ceremony is no longer necessary in the way we conduct it.

If I may use a phrase that is quite common, my question is: Do we have to be more Catholic than the Pope? Do we have to be more monarchist, do we have to be more traditional, do we have to be more orchestrated towards formal ceremonies than they are in the United Kingdom? Mr. Aimers's response to that appears to be: Yes.

On motion of Senator Corbin, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved the second reading of Bill S-9, to amend the Criminal Code (abuse of process).

She said: Honourable senators, essentially, this bill attempts to address the issue of the use of false allegations of child sexual abuse, largely within custodial disputes and within judicial proceedings. It had been my intention, honourable senators, to

speak more fully today, but in view of the lateness of the hour I shall just move the adjournment and proceed on another day.

On motion of Senator Cools, debate adjourned.

CRIMINAL CODE CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Watt, for the second reading of Bill C-247, to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences).—(*Honourable Senator Di Nino*).

Hon. David Tkachuk: Honourable senators, Bill C-247 would amend the Criminal Code with respect to cumulative sentencing. This bill has been reincarnated several times since 1996 by a member of the other place, seemingly against cabinet's wishes. That member persisted with the bill and, with the support of the other parties, was finally able to persuade the government of its merit, and the bill received third reading in the other place on June 7, 1999.

I think it is appropriate to quote from the debate on the bill in the other place before I continue with my short discussion. The originator of the bill said, in a previous Parliament:

Since I reintroduced this bill I have sadly been visited by too many victims of crime who have now come to realize that they are also victims of parliament. Some had lost children, some had lost parents, some had lost spouses, but all had lost faith in the courts, lost faith in parole boards and, most of all, lost faith in parliament.

This bill is about a principle that we accept in our common law, that crimes against persons and against property should be punished, and that the victims of crime have a right to justice. This bill repairs and restores proper justice by allowing the sentence to reflect the crime.

Too often the punishment of a crime bears little resemblance to the nature of the crime itself. This bill would enforce the severity of penalties with respect to the crime, reinforce the good work of our law enforcement and legal systems, and show true compassion to the victims and their families.

Bill C-247 would require those convicted of sexual assaults, and any other offence arising out of the same events, to serve their sentences consecutively, therefore reflecting the heinous nature of their crimes. It would require those convicted of second degree murder to serve the mandatory parts of each sentence consecutively. This bill only impacts two groups in our society: multiple murderers and multiple rapists.

Under our Charter of Rights and Freedoms, every Canadian has a right not to be subjected to cruel or unusual punishment; so the courts generally impose sentences that meet certain sentencing objectives, such as crime prevention, rehabilitation, imposition of a reasonable sentence, and the protection of society. Often, concurrent sentences are imposed so that a proportionate amount of each sentence is actually served. When several offences are committed in the course of a single incident, the courts will use concurrent sentencing. If offences are committed through a series of different incidents, consecutive sentencing is imposed. Under the Criminal Code today, there is no differentiation to account for the number of victims or the number of crimes in relation to parole ineligibility. If this bill is passed, it will give judges the discretion to extend the term of parole ineligibility for multiple murderers. Depending on the nature of the crimes committed, that judicial discretion would allow a judge to choose to add no time for the second crime, or to add one day or up to 25 additional years.

This bill is also realistic, as it prevents courts from imposing sentences beyond the natural lives of offenders. In effect, we are guaranteeing that the second, third, or eleventh victim will see justice served.

In most criminal cases, this type of provision would have little impact, but in rape and murder, the law slips into a haze that leaves many victims and families of victims perplexed and often disgusted, and, like many other Canadians, cynical and distrusting of our justice system. My sadness and frustration with these types of crimes is only matched by my exasperation with our justice system, when it allows someone like Clifford Olson to receive public attention and a forum to argue for his release after serving only 15 years.

It was interesting that, after 15 years, Clifford Olson was able to get a member of the staff at the penitentiary to actually talk about what a good guy he really was and to say how he did not fear for his safety. He testified on behalf of Clifford Olson. This gentleman need not have been afraid; he was not a little girl or a little boy.

This bill gives us an opportunity to restore some dignity to the system. Canadians of every political stripe, from every region across Canada, hold the same view on this issue. Over 90 per cent of Canadians would support differentiating parole ineligibility for multiple murders or multiple sexual assaults. That percentage would be even higher if the courts were allowed discretion in using this provision.

• (1640)

Honourable senators, we have an opportunity to restore some faith in our justice system and to promise families of victims of the most horrendous crimes that justice will be served.

On motion of Senator Di Nino, debate adjourned.

RELIGIOUS FREEDOM IN CHINA IN RELATION TO UNITED NATIONS INTERNATIONAL COVENANTS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wilson calling the attention of the Senate to religious freedom in China, in relation to the UN international covenants.—(*Honourable Senator Poy*).

Hon. Vivienne Poy: Honourable senators, before I begin, I should like to wish every one of you a very happy and healthy New Year in this year of the dragon.

I should like to speak to the inquiry into religious freedom in China that was initiated by Senator Wilson and on which Senator Austin and Senator Di Nino also spoke.

As the first person of Chinese heritage to sit in this chamber, I hope to bring a unique perspective to bear on this issue, particularly on China's cultural and historic attributes and how they shape its approach to human rights. When speaking of something as complex and emotionally charged as human rights, it is easy to allow our passions and rhetoric to overwhelm open-mindedness and logical argument.

In this chamber, it is important that we seek education over confrontation. If we do not, we risk losing sight of our common objective in this inquiry — namely, the greater respect for life, liberty and dignity of the human person in China, Canada and elsewhere.

This is a timely inquiry, as China has recently signed the International Covenant on Civil and Political Rights, as well as the International Covenant on Economic, Social and Cultural Rights. We look forward to China's ratification of these important documents. Moreover, the United States will be introducing a resolution on China's human rights practices at the United Nations Commission on Human Rights when it meets next month in Geneva.

Approximately one month ago, we marked the beginning of a new year and a new millennium. The passing of such a milestone offers an opportunity to reflect on past events, accomplishments and failures. I suspect that historians will view the past 100 years as a period of profound paradox. The 20th century was the bloodiest in human history, with millions of people suffering and losing their lives through war, regional conflicts and genocide. We saw the depths to which humanity can sink through the actions of various totalitarian regimes and by those states claiming to have a greater level of respect for human life. The 20th century also witnessed the dismantling of colonial empires, the establishment of the United Nations as a means for resolving interstate conflict, and the adoption of international human rights agreements.

Today, the result is that nations do not have the luxury to judge themselves. A state's actions are increasingly assessed by the court of international public opinion. The notion of human rights has become so firmly established that last year NATO entered into a war in the Balkans for what we were told was a response to the human rights abuses in Kosovo. This conflict, as well as those in East Timor and Chechnya, exceed the scope of this inquiry, but, ultimately, they call our attention to the central issue regarding the right of sovereign states to dictate on matters of internal policy to other sovereign states. How effective is it?

Any discussion of human rights, regardless of the country or culture we talk about, draws our attention to the relationship between the state and its citizens. The examination of this relationship begs us to answer the following questions: What rights do we hold by virtue of our humanity? Is the concept of human rights, as defined by the West, universally applicable? What is the proper balance between the rights of the individual and the rights of the community? These are questions that challenged us in the 20th century and ones that will confront us even more in the future.

The approach of the West to human rights often ignores the darker periods of its own history. The actions of Nazi Germany and segregation in the United States reveal that the West certainly has not supported individual human rights uniformly since the concept was first devised during the Enlightenment.

Even in Canada, the treatment of the First Nations, the historic treatment of non-white immigrants and the internment of Japanese Canadians during World War II reveals that the struggle for human rights is never complete, even though successive Canadian governments have sought to correct these mistakes.

Human rights, as defined by the United Nations Universal Declaration of Human Rights, is a recent concept. Up to the 17th century, Western societies placed as much emphasis on duties as on the rights of citizens. Since the concept of human rights varies between cultures, the West has been accused of imposing an interpretation on cultures that do not share its historic and cultural background.

This argument is reflected in the works of Indian philosopher R. Pannikar, who wrote that:

Human rights are one window through which one particular culture envisages a just human order for its individuals.

Certainly, this sentiment is reflected in the approach to human rights taken by the Chinese government. Beijing has argued that the interpretation and implementation of international human rights standards varies with cultural and historical facts and the level of economic development. China approaches Western definitions of civil and political rights with extreme caution.

While we must be sensitive to cultural differences, for they do exist, such differences should not be used to rationalize systematic human rights abuse. In spite of all their differences, cultures share, and always will, the common denominator of humanity.

To understand the actions of the Chinese government, we must acknowledge the more collectivist nature of Chinese society and the impact that religion has played in its history. Not doing so can lead to charges of cultural imperialism. I found the remarks of Senator Wilson and Senator Austin on this aspect of the inquiry particularly interesting. Senator Wilson's detailed explanation of China's approach to religion was particularly enlightening, as was her observation that the Western press often report religion-related arrests without any explanation beyond the fact that "Chinese law was broken."

• (1650)

In traditional China, importance was placed on humanity, also known as Confucian humanism. Mencius taught that people are more important than rulers and therefore had the right to overthrow tyrants. Centuries before European civilizations abandoned the concept of the divine right of kings, the concept of "people's rights" existed in China.

The concepts of human equality and popular sovereignty existed very early in Chinese thought, but they did not lead to a political structure that protected human rights. That is because power in modern China became increasingly concentrated in the hands of a few. Until the 1911 revolution, at least the imperial censorate was in the position to criticize the emperors exercise of power.

Within the past few centuries, a number of political rebellions in China have had religious or mystic overtones, and many of these contributed to the fall of major dynasties. I am sure the leaders know their history well.

To emphasize the role played by religion in China's political history, I will say a few words about the Taiping Rebellion, which started in 1850. The God-Worshipping Society proclaimed the Heavenly Kingdom of Great Peace in Nanjing in 1851. The leader, Hung Hsiu Ch'üan, claimed to be the younger brother of Jesus. The movement swept across the entire south China. Religious indoctrination was used to control the population in the conquered territories. It took 14 years for the imperial government to crush the rebellion, and it cost the lives of 30 million people, which was approximately 10 per cent of the population of China at that time. That is the entire population of Canada today.

I, for one, can understand why the Chinese government wishes to avoid this kind of upheaval from a large segment of its population, particularly when it is working with great speed to bring about the economic reforms believed to be necessary for China to catch up with the industrialized countries.

John Stewart Mill's concept of "the greatest good for the greatest number" has been an accepted philosophy in China for a long time.

In the 20th century, Wu Ching-Hsiung, chief architect of the Chinese nationalist government's first and most liberal constitutional draft, wrote in the 1920s:

Westerners, in struggling for freedom, started with the individual. Now we, in struggling for freedom, start from the group... We wish to save the nation and the race, and so we cannot but demand that each individual sacrifice his own freedom in order to preserve the freedom of the group.

Chang Fo-ch'üan, a graduate of John Hopkins University and a professor at Beijing University during the 1920s, believed that there could be no areas of an individual's existence that are inviolate. "Freedom", he said, "is public, not private," and concerns the needs of society as fully as that of the individual. Sun Yat-sun, in his later years, maintained that "what China required was not the liberty of the individual, but the freedom of the state." These are the philosophies of some of the most important intellectuals in China in the first half of the 20th century.

In the revised Preliminary Draft of the Chinese Constitution of the 1920s under the Nationalist government, the article on religious freedom read:

Every citizen shall have the freedom of religious belief; such freedom shall not be limited except in accordance with the law.

Not much has changed since then. The Chinese government today argues that individuals should be sacrificed where necessary for the collectivity and that those in power should decide what is good for that collectivity.

As long as any country is ruled by a one-party system, as in China where the Communist Party is enshrined in the constitution as the "dictatorship of the proletariat," the concept of human rights remains subject to the party's interpretation. "Human rights" in the Chinese language means "human power," and the struggle for human rights is understood by the government as a fight for political power and therefore as a threat to the establishment.

Since religious freedom falls within the confines of human rights, which is "human power," they are viewed as one and the same. In comparison to the draft constitution of 1920, Article 36 of China's 1982 constitution guarantees religious freedom. A second clause limits this guarantee, however, to "normal religious activities." "Normal" is left undefined, and the use of religion to disrupt public order is prohibited.

The control of any Chinese congregation by a foreign religious organization is not permitted. Historically, Western imperialists used religion as the pretext to dominate and obtain concessions from China. This in no way means that that was the intention of the missionaries who went to China. Most of them were simply used by their governments for political ends. Since the 19th century, many lawless Chinese converted to Christianity just so that they could enjoy the protection of the Western churches, and thus the Western governments, from Chinese law. An obvious example was the use of missionaries by the German government to obtain concessions in Shandong Province. Kaiser Wilhelm II was known to have said that he would have larger territorial rights in China if only he had more missionaries.

The present Chinese government recognizes and authorizes five religious movements: Buddhism, Catholicism, Protestantism, Taoism and Islam. Each of these five sanctioned religions is supervised by a "patriotic association" which reports to the government's Religious Affairs Bureau. Although it flourishes, unregistered religious activity is illegal and remains a punishable offence.

Such an approach to religion appears alien to us as Canadians until we understand China's unique historical and cultural experiences in this area.

This issue illustrates one of the main points of contention in the discussion of human rights in China — specifically, differences arising from Western versus Chinese understanding of human rights.

Linked to the "Asian" versus "Western" values discussion is the argument over whether human rights should take precedence over economic and social development. Collective rights such as the "right to development" have been suggested as being more important and more in keeping with the Chinese values than the West's apparent preoccupation with civil and political rights. Indeed, the Chinese government's attitude toward human rights is based on the proposition that subsistence rights are paramount and that civil and political rights are secondary.

The late Julius K. Nyerere, founder of modern-day Tanzania, perhaps expressed this idea best. He said:

What freedom has our subsistence farmer? He scratches a bare living from the soil provided the rains do not fail; his children work at his side without schooling, medical care, or even good feeding. Certainly he has freedom to vote and to speak as he wishes. But these freedoms are much less real to him than his freedom to be exploited. Only as his poverty is reduced will his existing political freedom become properly meaningful and his right to human dignity become a fact of human dignity.

President Li Tieying of the Chinese Academy of Social Sciences said the same thing to me when he visited Canada in October 1988. He said:

What's the use of having rights and freedoms when you don't have the right to adequate food and shelter?

To be sure, the idea of the greatest good for the greatest number of people appears at first to be an impelling argument for delaying the implementation of individual rights such as religious freedom. Countries have routinely explained away human rights violations through the need for national development.

Authoritarian governments, however, simply have not realistically demonstrated that free thought, speech, the establishment of mass organizations and the criticism of leaders is incompatible with the rights of subsistence and development. Statistical studies do not support the claim that there is a general conflict between civil and political rights and economic performance.

• (1700)

The Hon. the Speaker *pro tempore*: Senator Poy, your time is limited. Are you asking for permission to continue?

Senator Poy: Yes.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Please go on.

Senator Poy: Honourable senators, the 1993 Vienna Declaration on Human Rights states that:

...while development facilitates the enjoyment of human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.

Indeed, it is increasingly apparent that sustainable development actually requires a commitment to civil and political rights. By helping to ensure government accountability and transparency, civil and political rights can help channel economic growth into national development.

Arising from the developmental approach to human rights is the argument that individual civil and political rights must take a secondary position to the maintenance of order and stability, particularly in a country that is as vast in size and population as China. We do acknowledge that Chinese society differs markedly from Canada's. We are aware that China's immense population means that its society confronts many of the issues regarding freedom of speech, religion and assembly that we as Canadians really only deal with in the abstract. However, there can be no long-term peaceful coexistence among different religious and cultural groups and territories within a country without the establishment of a basis for respect of rights to human dignity. Compelled silence only offers the illusion of order.

Why is the Chinese government so concerned about civil unrest in recent years? The suppression of personal freedom has always existed but has seldom been reported by the Western press. With the opening up of China's trade with the West, and because of the Internet, the rest of the world is much more aware of what goes on in that country.

Deng Xiao-Ping's economic reforms have brought prosperity to China, but the wealth is concentrated in the hands of very few. Tens of millions of peasants have been driven off the land because of industrialization and development, and they are roaming the country looking for work. Unprofitable state industries are being dismantled and urban workers have not only lost their jobs but have also lost their social safety net. The feeling of loss and insecurity in the population is channelled towards the hope provided by religion, mysticism, and even traditional exercises that are believed to heal the body,

particularly when a large segment of the population has lost the government medical care that went with their jobs.

The Internet remains the greatest threat to the Chinese government. The educated in the country can be mobilized instantly, as we saw on television last summer regarding the Falun Dafa movement. I believe, however, that mass arrest will only increase instability in the country.

The Chinese people need a safety valve to release their pent-up frustration caused by economic dislocation, and the only way is to democratize the system of government by giving the people more control over their own lives. Curbing freedom does not ensure stability in any country in the long run.

Honourable senators, before I conclude, a response is required to Senator Di Nino's suggestion that the reason the recent Chinese migrants have come to Canada on leaky boats is that there have been human rights violations in China. I refer to an interview with an illegal — and I repeat, illegal — Chinese migrant in the United States. When he was asked whether he had more freedom in the United States or in China, he immediately answered "China". He was then asked why he had suffered such hardship to go to the United States and the answer was: "For economic security."

As Senator Austin remarked, China is attempting to make progress in the field of human rights, thanks in part to the opening up of the country to technological changes and the flow of information and ideas. Considerable effort has been made by the Chinese government to establish the rule of law and a court system based on the same principles as those found in the West. As Canadians, we should welcome such developments. Canada is working with the Chinese government on human rights. The two countries are participating in a constructive dialogue on these issues and Canada is assisting China in reforming its legal and judicial structures.

Having said all that, I still believe that, ultimately, the improvement of China's human rights record will come from within, through the actions of the younger generation. Only so much can be accomplished on a government-to-government basis, particularly when one of those governments is authoritarian.

In this age of globalization, the deluge of information made possible by the Internet is the greatest equalizer of all. No longer can countries build walls to keep their citizens in. Chinese youths increasingly have the ability to access or disseminate information anywhere in the world. With better economic and educational opportunities for the young, the future leaders of China want what the rest of the world wants — economic security and individual freedom.

Honourable senators, in order for the Western democracies to have influence on human rights in China, there must be continuous dialogue. Friendship and trade are the two most useful tools of influence.

There is an old Chinese proverb that says: "There are many paths to the top of the mountain, but the view is always the same." I believe China is on its way up the mountain. It will reach the top, like Canada and the other industrialized countries, but along a different path.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wonder whether Senator Poy would take a few questions on what she has had to say these past few moments?

Senator Poy: Yes, if I can answer them.

Senator Kinsella: I think it may be rather difficult, if I have understood correctly what you have had to say. First of all, is it your position that human rights are culturally relative?

Senator Poy: The understanding of human rights is, because everyone has a different way of understanding. What I was saying is that the Chinese understanding of human rights is different. What we understand is really a Western import. Not that it is not right — it is right, but everyone must learn the same system. However, because the country is so different, their approach must be different.

I am stating a fact. I am not stating that what they are doing is correct. I am attempting to explain what is happening, from my own understanding.

Senator Kinsella: I wonder whether it is the honourable senator's position that there is no unity to human rights; that economic, social and cultural rights are somehow in an economic relationship with civil and political rights? Is it the honourable senator's position that there is no unity to human rights?

Senator Poy: I think there should be, but right now in China there is not; that is what I am saying. Hopefully, very soon there will be.

Senator Kinsella: Could the honourable senator let us know whether it is her view that there is a difference between a justification of a given human right and the international recognition of a given human right? For example, freedom of conscience and freedom of religion are recognized in international treaty law, and she has alluded to the fact that China has submitted the instruments of ratification of the International Covenant on Civil and Political Rights. Is it the honourable senator's view that the international law that recognizes the right to freedom of religion is one thing and the philosophical justification is quite another thing?

• (1710)

Senator Poy: I do not believe that, honourable senators. I am trying to explain what is happening. Historically, this is what happened in China. It takes time for leaders to learn to deal with things differently. When China reaches a similar standard to a Western country in terms of economics, there will be more opportunity for people to express themselves and to learn. Currently, it is as if we are comparing apples to oranges.

Senator Kinsella: Is the honourable senator saying that the human right of freedom of religion is being respected by the Government of China? The honourable senator has advised us that the Chinese government has an office of religion which approves of five religions. Does the right of freedom of religion embrace Judaism in China?

Senator Poy: According to my information, there are only five. I cannot say anything more than that. If Senator Wilson were here, she would be able to answer the question better than I am able to answer it.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.

DISTINGUISHED CANADIANS AND THEIR INVOLVEMENT WITH THE UNITED KINGDOM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate:

(a) to persons of Canadian birth who sat as members of the House of Commons of the United Kingdom, including Ontario-born Edward Blake, Liberal Minister of Justice of Canada 1875-1877 also Leader of the Liberal Party of Canada 1880-1887, and New-Brunswick born the Right Honourable Bonar Law, Prime Minister of the United Kingdom 1922-1923, and Ontario-born Sir Bryant Irvine Deputy Speaker of the House of Commons of the United Kingdom 1976-1982;

(b) to persons of Canadian birth who sat as members of the House of Lords of the United Kingdom, including the Right Honourable Richard B. Bennett, Prime Minister of Canada 1930-1935, and Lord Beaverbrook, Cabinet Minister in the United Kingdom in 1918 and 1940-1942;

(c) to persons of British birth born in the United Kingdom or the Dominions and Colonies who have served in the Senate and the House of Commons of Canada including the Right Honourable John Turner, Prime Minister of Canada 1984 also Liberal Leader of the Opposition 1984-1990 and myself, a sitting black female Senator born in the British West Indies;

(d) to persons of Canadian citizenship who were members of the Privy Council of the United Kingdom including the Prime Ministers of Canada, the Supreme Court of Canada Chief Justices, and some Cabinet Ministers of Canada including the Leader of the Government in the Senate 1921-1930 and 1935-1942 the Right Honourable Senator Raoul Dandurand appointed to the United Kingdom Privy Council in 1941;

(e) to the 1919 Nickle Resolution, a motion of only the House of Commons of Canada for an address to His Majesty King George V and to Prime Minister Richard B. Bennett's 1934 words in the House of Commons characterizing this Resolution, that:

"That was as ineffective in law as it is possible for any group of words to be. It was not only ineffective, but I am sorry to say, it was an affront to the sovereign himself. Every constitutional lawyer, or anyone who has taken the trouble to study this matter realizes that that is what was done.";

(f) to the words of Prime Minister R.B. Bennett in a 1934 letter to J.R. MacNicol, MP that:

"So long as I remain a citizen of the British Empire and a loyal subject of the King, I do not propose to do otherwise than assume the prerogative rights of the Sovereign to recognize the services of his subjects.";

(g) to the many distinguished Canadians who have received honours since 1919 from the King or Queen of Canada including the knighting in 1934 of Sir Lyman Duff, Supreme Court of Canada Chief Justice, and in 1935 of Sir Ernest MacMillan, musician, and in 1986 of Sir Bryant Irvine, parliamentarian, and in 1994 of Sir Neil Shaw, industrialist, and in 1994 of Sir Conrad Swan, advisor to Prime Minister Lester Pearson on the National Flag of Canada;

(h) to the many distinguished Canadians who have received 646 orders and distinctions from foreign non-British, non-Canadian sovereigns between 1919 and February 1929;

(i) to the legal and constitutional position of persons of Canadian birth and citizenship, in respect of their ability and disability for their membership in the United Kingdom House of Lords and House of Commons, particularly Canadians domiciled in the United Kingdom holding dual citizenship of Canada and of the United Kingdom;

(j) to the legal and constitutional position of Canadians at home and abroad in respect of entitlement to receive honours and distinctions from their own Sovereign, Queen Elizabeth II of Canada, and to the position in respect of their entitlement to receive honours and distinctions from sovereigns other than their own, including from the sovereign of France the honour, the Ordre Royale de la Légion d'Honneur;

(k) to those honours, distinctions, and awards that are not hereditary in character such as life peerages, knighthoods, military and chivalrous orders; and

(l) to the recommendation by the United Kingdom Prime Minister Tony Blair to Her Majesty Queen Elizabeth II for the appointment to the House of Lords as a non-hereditary peer and lord of Mr. Conrad Black a distinguished Canadian, publisher, entrepreneur and also the Honorary Colonel of the Governor General's Foot Guards of Canada.—(*Honourable Senator LeBreton*).

Hon. Consiglio Di Nino: Honourable senators, I rise today to participate in the debate on Senator Cools' inquiry regarding distinguished Canadians and their involvement in the United Kingdom. Over the years, a number of Canadians have received well-deserved honours from the United Kingdom despite the existence of the 1919 Nickle Resolution. Some examples were given by Senator Cools in her presentation.

There are more recent examples about which honourable senators should be aware. Eleni Bakopanos, a member of the other place, recently received an honour from Portugal. My friend, the late Peter Bosa, among others, received an honour from Spain not too many years ago.

Conrad Black is a respected Canadian with a successful career in international business. The Queen and the Government of the United Kingdom decided to grant him an honour in recognition of the services he has rendered to that country. Why, then, is this government putting roadblocks in the path of his receiving this honour? The fact is that the Prime Minister is unhappy with the *National Post* and its coverage of his government's political misdeeds. Thus, it seems to me that the Prime Minister has decided to use the power of his office to obstruct Mr. Black's appointment to the House of Lords. Surely, this is one of the more egregious examples of Mr. Chrétien's love for petty partisan politics.

I applaud Senator Cools for raising this important issue, and I look forward to a frank exchange of views with all honourable senators.

Hon. Marcel Prud'homme: Honourable senators, I should like to ask a question of the Honourable Senator Di Nino, if he would allow me to do so.

Senator Di Nino: Of course, honourable senators.

Senator Prud'homme: Honourable senators, Canada is a country that has evolved greatly. I remember participating in a vigorous debate in the House of Commons with the Right Honourable John Diefenbaker, who was a very good friend of mine. He was a great orator. The matter of debate concerned changing gradually the terms of Canadian citizenship. At that time, there were some members of the Parliament of Canada who happened not to be Canadian citizens. Some people thought that this should be allowed to continue. However, I thought it should be abolished right away.

We made a deal with Elections Canada concerning British citizens. However, there were other classes of citizens. People of Greek origin and Italian origin were considered to be in one class. Those of British origin were considered to be in another class with special privileges. Then there were those who were Canadian born and those who were naturalized. Gradually, we changed so that everyone was on an equal footing. We said that no longer would there be second- or third-class Canadians.

My first passport stated that as a Canadian I was a British subject. I had another passport which stated that as a Canadian citizen I was a member of the Commonwealth. My present-day passport states that its bearer is a Canadian citizen.

Senator Di Nino: Honourable senators, I, too, was aware of the differences to which the honourable senator made reference. I was one of those who was less Canadian than others. I did not like it then and I do not like it now. However, that has nothing to do with the issue at hand. The issue at hand concerns an established tradition. Many countries recognize the contributions made by Canadians to the service of those countries. That is the issue we are discussing today.

I was offended much more than Senator Prud'homme. He, at least, was called a Canadian. I was not allowed to vote. However, my neighbour, who had just arrived from England, was allowed to vote. I believe that was a dark chapter in the history of this country which, in my opinion, is a different issue from the one we are talking about now.

Today, we are talking about whether the Prime Minister, because of personal reasons, blocked this man from an appointment to the House of Lords. Whether Conrad Black should receive such an appointment is not up to me. As I understand it, the Government of the United Kingdom, as well as the Queen, had agreed to bestow this honour on Mr. Black. Yet, a particular piece of legislation that has not been used for a long time was used to block the appointment. That is the question I am raising. I do not believe it is correct.

• (1720)

Senator Prud'homme: Honourable senators, I have a supplementary question. Now that we will look into the new Immigration and Citizenship Act, does the honourable senator have any comments on it at this time? I am not totally against what Senator Cools is trying to do. It is a question of receiving honour. Some honours you can receive; others you cannot. I do not understand that. Some members here were candidates for honours in foreign countries, but they were turned down because their candidacy was not agreed upon. You need permission to receive an honour from another country.

Does he believe we are on our way towards saying that no one should have dual citizenship in Canada? That sounds like the ultimate goal here. I never knew that Senator Di Nino was one of the people whom I have been talking about. I regret the past, but I am not someone who stays on his knees, regretting all the

mistakes that were made in the past. I want to progress and make a better future by learning from past mistakes. Does the honourable senator think we should slowly move towards that?

Senator Di Nino: First, I agree that it is something of the past. We should learn from the past and not necessarily revisit it, other than to learn from it.

I have a different point of view from yours on this issue. Again, I am not sure that it is related. If I am out of order, I will sit down. I think that borders or frontiers are an unnatural thing that were created by man — mainly the male species, I may add — to keep people out. The experiment that is happening in Europe, where they are trying to knock down those frontiers and borders and to engage humans more as citizens of the world, is the way to go. I am not particularly interested in building more barriers or more frontiers. Having said that, I recognize that it is not necessarily a widely accepted position and that it is certainly not something that can be done quickly in the near future. To answer your question directly, having two or three passports or citizenships would not bother me at all.

Hon. Jeremiah S. Grafstein: Honourable senators, I have a question. I was a little confused by Senator Di Nino's explication of this issue. I have not spoken on this issue before, although I find it rather interesting from an historic standpoint. First, is there not a clear distinction in the honourable senator's mind between receiving "honours" and being appointed to the House of Lords?

Senator Di Nino: Both Bennett and Beaverbrook were appointed to the House of Lords after the 1919 legislation. Precedents have occurred.

Senator Grafstein: That was not my question. The question is not with respect to what has happened, but is with respect to whether there is not, in his own mind, a distinction between someone being appointed to the House of Lords, for instance, and someone being called to the Senate to receive an order or an honour. Senator Di Nino referred to Senator Bosa, who received many honours, both from Italy and from Spain, for his very distinguished work in international organizations. Surely there is a distinction between that and being appointed to an upper chamber. I want to know if the honourable senators makes that distinction, or does he blur the line?

Senator Di Nino: I do not think it is a question of "blurring the line". Senator Grafstein is talking about degrees of honours. I do not think it is up to us on this side to decide which honour one would receive in another country. If the question being asked of us, as Canadians, was whether we should allow someone to receive a Canadian honour for benefits that Canadians have received from a particular person, I might make a distinction. I agree with him on that point. However, that is not something we must be concerned about. It is the country that is offering that honour. Whether it is at this level or at another level, it is still an honour to a Canadian for services rendered to that country.

Senator Grafstein: If I may make a further clarification on this subject, the honourable senator used two examples: Bennett and Beaverbrook. Both of those right honourable gentlemen chose, if my recollection is correct, to live permanently in the United Kingdom. After making a decision to live permanently there, they were then called to the House of Lords. Am I correct in that? The honourable senator used those as examples in this particular case.

Senator Di Nino: I cannot answer that question, other than by saying, as we have been told, that Mr. Black would have decided to reside in England if that honour had been bestowed upon him.

Hon. Anne C. Cools: Honourable senators, there are some wonderful, important, questions being raised here this afternoon. Perhaps they will be developed further as the debate continues.

Senator Di Nino stated that two members of Parliament, namely, Eleni Bakopanos and Senator Bosa, received what we would call foreign honours. In Senator Di Nino's travels — since he occupies a unique position — has he encountered Canadians who sit in upper and lower chambers in other countries of the world? I have been told there are many, but I have not yet been able to discover how many there are or who they are. For instance, I am told that in Latvia there is a Canadian woman. Yes, there are honours and there are seats in Parliaments. They are both appointed and decided upon by the sovereign. I have begun to develop an interest in Canadians in general who are sitting in other countries of the world as members of both chambers. Does the honourable senator have any information on that?

Senator Di Nino: I am not sure whether I would use the word "Canadian". The president of either Latvia or Lithuania came to Canada after the war, returned to Latvia to take up permanent residency and was then elected President of Latvia. There are a couple of others in other pre-Soviet Union countries — that is, the Eastern Bloc — who ran for Parliament and were elected. Their names escape me, but I am not sure whether they would now consider themselves Canadian, other than those who once were Canadian but are now residents and citizens of another country.

Senator Cools: In the House of Lords, there is also another group of Canadians. The Conrad Black appointment was supposed to be that of a non-hereditary lord. Among the hereditary lords, apparently, there is a clutch of Canadians. The information is not easy to find.

I think the real question is on the entitlement of a person with dual British-Canadian citizenship in terms of appointments or honours. I thank the honourable senator for bringing that issue forward. The Queen in Canada is the Queen of Canada, just as the Queen is also the Queen of the United Kingdom. I know many people view this as a cryptic and arcane point; however, we do have a Queen of Canada and a Queen of England. These issues are complex. Mr. Black is in a unique position because he has a foot in both camps.

I once found myself in a similar position. I belong to one of those families that Senator Di Nino is talking about. By virtue of being British West Indian, we could vote in elections in Canada, whereas Italians could not. I view that as a worthy privilege. Thank you very much, Senator Di Nino.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, whether it is agreed or not, I think the least Senator Di Nino deserves is a lifetime subscription to the *National Post* and, in my opinion, Senator LeBreton should offer that immediately.

On motion of Senator LeBreton, debate adjourned.

NATIONAL DEFENCE

MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE TO EXAMINE CONDUCT OF PERSONNEL IN RELATION TO THE SOMALIA DEPARTMENT AND THE DESTRUCTION OF MEDICAL RECORDS OF PERSONNEL SERVING IN CROATIA—MOTION STANDS

Hon. John Lynch-Staunton (Leader of the Opposition), pursuant to notice of November 2, 1999, moved:

That a Special Committee of the Senate be appointed to examine and report on two significant matters which involve the conduct of chain of command of the Canadian Forces, both in-theatre and at National Defence Headquarters and its response to operational, decision making and administrative problems encountered during the Somalia deployment to the extent that these matters have not been examined by the Commission of Inquiry into the Deployment of Canadian Forces to Somalia and allegations that Canadian soldiers were exposed to toxic substances in Croatia between 1993 and 1995, and the alleged destruction of medical records of personnel serving in Croatia.

That the Committee in examining these issues may call witnesses from whom it believes it may obtain evidence relevant to these matters including but not limited to:

1. The present Minister of Defence in relation to both matters;
2. Former Ministers of National Defence in relation to both matters;
3. The then Deputy Minister of National Defence in relation to both matters;
4. The then Acting Chief of Staff of the Minister of National Defence in relation to the Somalia occurrence;
5. The then special advisor to the Minister of National Defence (M. Campbell) in relation to the Somalia occurrence;

6. The then special advisor to the Minister of National Defence (J. Dixon) in relation to the Somalia occurrence;

7. The persons occupying the position of Judge Advocate General during the relevant period in relation to the Somalia occurrence;

8. The then Deputy Judge Advocate General (litigation) in relation to the Somalia occurrence; and

9. The then Chief of Defence Staff and Deputy Chief of Defence Staff in relation to both occurrences.

That seven Senators nominated by the Committee of Selection act as members of the Special Committee, and that three members constitute a quorum;

That the Committee have power to send for persons, papers and records, to examine witnesses under oath, to report from time to time and to print such papers and evidence from day to day as may be ordered by the Committee;

That the Committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the Committee have the power to engage the services of such counsel and other professional, technical, clerical and other personnel as may be necessary for the purposes of its examination;

That the political parties represented on the Special Committee be granted allocations for expert assistance with the work of the Committee;

That it be empowered to adjourn from place to place within and outside Canada;

That the Committee have the power to sit during sittings and adjournments of the Senate;

That the Committee submit its report not later than one year from the date of it being constituted, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate.

Senator Lynch-Staunton: Honourable senators, considering the hour, I am willing to forego my comments on this motion until another day on the assumption that it will remain at the fifteenth-day status it has now.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed to keep Motion No. 7 at its fifteenth-day status?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we on this side agree to the proposition that Senator Lynch-Staunton's motion retain its standing on the Order Paper, even though he will not speak to it today.

Hon. Senators: Agreed.

Motion stands.

The Senate adjourned until Wednesday, February 9, 2000, at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

THE HONOURABLE GILDAS L. MOLGAT

THE LEADER OF THE GOVERNMENT

THE HONOURABLE J. BERNARD BOUDREAU, P. C.

THE LEADER OF THE OPPOSITION

THE HONOURABLE JOHN LYNCH-STAUTON

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

GARY O'BRIEN

PRINCIPAL CLERK, PROCEDURE

CHARLES ROBERT

LAW CLERK AND PARLIAMENTARY COUNSEL

MARK AUDCENT

USHER OF THE BLACK ROD

MARY McLAREN

THE MINISTRY

According to Precedence

(February 8, 2000)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. Lloyd Axworthy	Minister of Foreign Affairs
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Industry
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. J. Bernard Boudreau	Leader of the Government in the Senate
The Hon. Lyle Vancilief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. George Baker	Minister of Veterans Affairs and Secretary of State (Atlantic Canada Opportunities Agency)
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Raymond Chan	Secretary of State (Asia-Pacific)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Ronald J. Duhamel	Secretary of State (Western Economic Diversification) and Francophonie
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)

SENATORS OF CANADA ACCORDING TO SENIORITY

(February 8, 2000)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg, Man.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver, B.C.
Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ontario	Ottawa, Ont.
William McDonough Kelly	Port Severn	Mississauga, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Jean-Maurice Simard	Edmundston	Edmundston, N.B.
Michel Cogger	Lauzon	Knowlton, Que.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Golfe	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	New Brunswick	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
Mabel Margaret DeWare	New Brunswick	Moncton, N.B.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
Normand Grimard	Quebec	Noranda, Que.
Thérèse Lavoie-Roux	Quebec	Montreal, Que.
J. Michael Forrester	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis Johnson	Winnipeg-Interlake	Winnipeg, Man.
Eric Arthur Berntson	Saskatchewan	Saskatoon, Sask.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Ronald D. Ghitter	Alberta	Calgary, Alta.
Terrance R. Stratton	Red River	St. Norbert, Man.

ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Fernand Roberge	Saurel	Ville Saint-Laurent, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
Erminie Joy Cohen	New Brunswick	Saint John, N.B.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	New Brunswick	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Newfoundland	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Ville Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Bon Accord, Alta.
Léonce Mercier	Mille Isles	Saint-Élie d'Orford, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Calvin Woodrow Ruck	Dartmouth	Dartmouth, N.S.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon	Whitehorse, Yukon Territory
George Furey	Newfoundland	St. John's, Nfld.
Melvin Perry Poirier	Prince Edward Island	St. Louis, P.E.I.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
J. Bernard Boudreau, P.C.	Nova Scotia	Halifax, N.S.

SENATORS OF CANADA

ALPHABETICAL LIST

(February 8, 2000)

Senator	Designation	Post Office Address
THE HONOURABLE		
Adams, Willie	Nunavut	Rankin Inlet, Nunavut
Andreychuk, A. Raynell	Regina	Regina, Sask.
Angus, W. David	Alma	Montreal, Que.
Atkins, Norman K.	Markham	Toronto, Ont.
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.
Bacon, Lise	De la Durantaye	Laval, Que.
Beaudoin, Gérald-A.	Rigaud	Hull, Que.
Berntson, Eric Arthur	Saskatchewan	Saskatoon, Sask.
Bolduc, Roch	Golfe	Sainte-Foy, Que.
Boudreau, J. Bernard, P.C.	Nova Scotia	Halifax, N.S.
Bryden, John G.	New Brunswick	Bayfield, N.B.
Buchanan, John, P.C.	Nova Scotia	Halifax, N.S.
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.
Carstairs, Sharon	Manitoba	Victoria Beach, Man.
Chalifoux, Thelma J.	Alberta	Morinville, Alta.
Christensen, Ione	Yukon Territory	Whitehorse, Yukon Territory
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.
Cogger, Michel	Lauson	Knowlton, Que.
Cohen, Erminie Joy	New Brunswick	Saint John, N.B.
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.
Cook, Joan	Newfoundland	St. John's, Nfld.
Cools, Anne C.	Toronto-York	Toronto, Ont.
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.
DeWare, Mabel Margaret	New Brunswick	Moncton, N.B.
Di Nino, Consiglio	Ontario	Downsview, Ont.
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.
Eyton, J. Trevor	Ontario	Caledon, Ont.
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.
Finestone, Sheila, P.C.	Montarville	Montreal, Que.
Finnerty, Isobel	Ontario	Burlington, Ont.
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.
Forrestall, J. Michael	Dartmouth and Eastern Shore	Dartmouth, N.S.
Fraser, Joan Thorne	De Lorimier	Montreal, Que.
Furey, George	Newfoundland	St. John's, Nfld.
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.
Ghitter, Ronald D.	Alberta	Calgary, Alta.
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.
Grimard, Normand	Quebec	Noranda, Que.
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.
Hays, Daniel Phillip	Calgary	Calgary, Alta.
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.
Johnson, Janis	Winnipeg-Interlake	Winnipeg, Man.
Joyal, Serge, P.C.	Kennebec	Montreal, Que.
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.
Kelly, William McDonough	Port Severn	Mississauga, Ont.
Kenny, Colin	Rideau	Ottawa, Ont.
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.
Kinsella, Noël A.	New Brunswick	Fredericton, N.B.

Senator	Designation	Post Office Address
THE HONOURABLE		
Kirby, Michael	South Shore	Halifax, N.S.
Kolber, E. Leo	Victoria	Westmount, Que.
Kroft, Richard H.	Manitoba	Winnipeg, Man.
Lavoie-Roux, Thérèse	Quebec	Montreal, Que.
Lawson, Edward M.	Vancouver	Vancouver, B.C.
LeBreton, Marjory	Ontario	Manotick, Ont.
Losier-Cool, Rose-Marie	New Brunswick	Bathurst, N.B.
Lynch-Staunton, John	Grandville	Georgetown, Que.
Maheu, Shirley	Rougemont	Ville Saint-Laurent, Que.
Mahovlich, Francis William	Toronto	Toronto, Ont.
Meighen, Michael Arthur	St. Marys	Toronto, Ont.
Mercier, Léonce	Mille Isles	Saint-Élie d'Orford, Que.
Milne, Lorna	Peel County	Brampton, Ont.
Molgat, Gildas L. Speaker	Ste-Rose	Winnipeg, Man.
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.
Nolin, Pierre Claude	De Salaberry	Quebec, Que.
Oliver, Donald H.	Nova Scotia	Halifax, N.S.
Pearson, Landon	Ontario	Ottawa, Ontario
Pépin, Lucie	Shawinigan	Montreal, Que.
Perrault, Raymond J., P.C.	North Shore-Burnaby	North Vancouver, B.C.
Perry Poirier, Melvin	Prince Edward Island	St. Louis, P.E.I.
Pitfield, Peter Michael, P.C.	Ontario	Ottawa, Ont.
Poulin, Marie-P.	Northern Ontario	Ottawa, Ont.
Poy, Vivienne	Toronto	Toronto, Ont.
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.
Rivest, Jean-Claude	Stadacona	Quebec, Que.
Roberge, Fernand	Saurel	Ville Saint-Laurent, Que.
Robertson, Brenda Mary	Riverview	Shediac, N.B.
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Robichaud, Louis-J., P.C.	L'Acadie-Acadia	Saint-Antoine, N.B.
Roche, Douglas James	Edmonton	Edmonton, Alta.
Rompkey, William H., P.C.	Newfoundland	North West River, Labrador
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.
Ruck, Calvin Woodrow	Dartmouth	Dartmouth, N.S.
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Sibbeston, Nick	Northwest Territories	Fort Simpson, N.W.T.
Simard, Jean-Maurice	Edmundston	Edmundston, N.B.
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.
Spivak, Mira	Manitoba	Winnipeg, Man.
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.
Stratton, Terrance R.	Red River	St. Norbert, Man.
Taylor, Nicholas William	Sturgeon	Bon Accord, Alta.
Tkachuk, David	Saskatchewan	Saskatoon, Sask.
Watt, Charlie	Inkerman	Kuujuuaq, Que.
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.

SENATORS OF CANADA

BY PROVINCE AND TERRITORY

(February 8, 2000)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ontario	Ottawa
4 William McDonough Kelly	Port Severn	Missassauga
5 Jerahmiel S. Grafstein	Metro Toronto	Toronto
6 Anne C. Cools	Toronto-York	Toronto
7 Colin Kenny	Rideau	Ottawa
8 Norman K. Atkins	Markham	Toronto
9 Consiglio Di Nino	Ontario	Downsview
10 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
11 John Trevor Eyton	Ontario	Caledon
12 Wilbert Joseph Keon	Ottawa	Ottawa
13 Michael Arthur Meighen	St. Marys	Toronto
14 Marjory LeBreton	Ontario	Manotick
15 Landon Pearson	Ontario	Ottawa
16 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
17 Lorna Milne	Peel County	Brampton
18 Marie-P. Poulin	Northern Ontario	Ottawa
19 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
20 Francis William Mahovlich	Toronto	Toronto
21 Vivienne Poy	Toronto	Toronto
22 Isobel Finnerty	Ontario	Burlington
23		
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Michel Cogger	Lauzon	Knowlton
5 Roch Bolduc	Golfe	Sainte-Foy
6 Gérald-A. Beaudoin	Rigaud	Hull
7 John Lynch-Staunton	Grandville	Georgeville
8 Jean-Claude Rivest	Stadacona	Quebec
9 Marcel Prud'homme, P.C.	La Salle	Montreal
10 Fernand Roberge	Saurel	Ville de Saint-Laurent
11 W. David Angus	Alma	Montreal
12 Pierre Claude Nolin	De Salaberry	Quebec
13 Lise Bacon	De la Durantaye	Laval
14 Céline Hervieux-Payette, P.C.	Bedford	Montreal
15 Shirley Maheu	Rougemont	Ville de Saint-Laurent
16 Léonce Mercier	Mille Isles	Saint-Élie d'Orford
17 Lucie Pépin	Shawinigan	Montreal
18 Marisa Ferretti Barth	Repentigny	Pierrefonds
19 Serge Joyal, P.C.	Kennebec	Montreal
20 Joan Thorne Fraser	De Lorimier	Montreal
21 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
22 Sheila Finestone, P.C.	Montarville	Montreal
23		
24		

SENATORS BY PROVINCE—MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Nova Scotia	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Calvin Woodrow Ruck	Dartmouth	Dartmouth
9 J. Bernard Boudreau, P.C.	Nova Scotia	Halifax
10		

NEW BRUNSWICK—10

THE HONOURABLE		
1 Louis-J. Robichaud, P.C.	L'Acadie-Acadia	Saint-Antoine
2 Eymard Georges Corbin	Grand-Sault	Grand-Sault
3 Brenda Mary Robertson	Riverview	Shediac
4 Jean-Maurice Simard	Edmundston	Edmundston
5 Noël A. Kinsella	New Brunswick	Fredericton
6 Mabel Margaret DeWare	New Brunswick	Moncton
7 Erminie Joy Cohen	New Brunswick	Saint John
8 John G. Bryden	New Brunswick	Bayfield
9 Rose-Marie Losier-Cool	New Brunswick	Bathurst
10 Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent

PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Melvin Perry Poirier	Prince Edward Island	St. Louis
4		

SENATORS BY PROVINCE—WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Gildas L. Molgat, Speaker	Ste-Rose	Winnipeg
2 Mira Spivak	Manitoba	Winnipeg
3 Janis Johnson	Winnipeg-Interlake	Winnipeg
4 Terrance R. Stratton	Red River	St. Norbert
5 Sharon Carstairs	Manitoba	Victoria Beach
6 Richard H. Kroft	Manitoba	Winnipeg

BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Raymond J. Perrault, P.C.	North Shore-Burnaby	North Vancouver
3 Jack Austin, P.C.	Vancouver South	Vancouver
4 Pat Carney, P.C.	British Columbia	Vancouver
5 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
6 Ross Fitzpatrick	Okanagan-Similkameen	Kamloops

SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 Eric Arthur Berntson	Saskatchewan	Saskatoon
3 A. Raynell Andreychuk	Regina	Regina
4 Leonard J. Gustafson	Saskatchewan	Macoun
5 David Tkachuk	Saskatchewan	Saskatoon
6		

ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Ronald D. Gitter	Alberta	Calgary
4 Nicholas William Taylor	Sturgeon	Bon Accord
5 Thelma J. Chalifoux	Alberta	Morinville
6 Douglas James Roche	Edmonton	Edmonton

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Newfoundland	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland	St. John's
6		

NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

DIVISIONAL SENATORS

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Normand Grimard	Quebec	Noranda, Que.
2 Thérèse Lavoie-Roux	Quebec	Montreal, Que.

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of February 8, 2000)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair:	Honourable Senator Watt	Deputy Chair:	Honourable Senator St. Germain
Honourable Senators:			
Andreychuk,	Christensen,	*Lynch-Staunton,	St. Germain,
Austin,	DeWare,	(or Kinsella)	Watt.
Boudreau,	Gill,	Pearson,	
(or Hays)	Johnson,	Sibbeston,	
Chalifoux,			

*Original Members as nominated by the Committee of Selection**Andreychuk, Austin, Beaudoin, *Boudreau (or Hays), Chalifoux, Christensen, Comeau, DeWare, Gill, Johnson***Lynch-Staunton (or Kinsella), Pearson, Sibbeston, Watt.*

AGRICULTURE AND FORESTRY

Chair:	Honourable Senator Gustafson	Deputy Chair:	Honourable Senator Fairbairn
Honourable Senators:			
Boudreau,	Ferretti Barth,	Oliver,	Sparrow,
(or Hays)	Gill,	Robichaud,	St. Germain,
Chalifoux,	Gustafson,	(Saint-Louis-de-Kent)	Stratton.
Fairbairn,	*Lynch-Staunton,	Rossiter,	
Fitzpatrick,	(or Kinsella)		

*Original Members as nominated by the Committee of Selection***Boudreau (or Hays), Chalifoux, Fairbairn, Fitzpatrick, Ferretti Barth, Gill, Gustafson, *Lynch-Staunton (or Kinsella), Oliver, Robichaud (Saint-Louis-de-Kent), Sparrow, Spivak, St. Germain, Stratton.*THE SUBCOMMITTEE ON FORESTRY
(Agriculture and Forestry)

Chair:	Honourable Senator Fitzpatrick	Deputy Chair:	Honourable Senator St. Germain
Honourable Senators:			
*Boudreau,	Fitzpatrick,	*Lynch-Staunton,	St. Germain,
(or Hays)	Gill,	(or Kinsella)	Stratton.
Fairbairn,			

BANKING, TRADE AND COMMERCE**Chair: Honourable Senator Kolber**

Honourable Senators:

Angus,	Furey,
*Boudreau (or Hays)	Hervieux-Payette,
Fitzpatrick,	Kelleher,
	Kenny,

Deputy Chair: Honourable Senator Tkachuk

Kolber,	Meighen,
Kroft,	Oliver,
Joyal,	Tkachuk.
*Lynch-Staunton, (or Kinsella)	

Original Members as nominated by the Committee of Selection

*Angus, *Boudreau (or Hays), Fitzpatrick, Furey, Hervieux-Payette, Joyal, Kelleher, Kenny, Kolber, *Lynch-Staunton (or Kinsella), Meighen, Oliver, Tkachuk.*

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**Chair: Honourable Senator Spivak**

Honourable Senators:

Adams,	Christensen,
*Boudreau, (or Hays)	Cochrane,
Buchanan,	Eyton,
Chalifoux,	Finnerty,

Deputy Chair: Honourable Senator Taylor

Kelleher,	Spivak,
Kenny,	Taylor.
*Lynch-Staunton, (or Kinsella)	
Sibbeston,	

Original Members as nominated by the Committee of Selection

*Adams, *Boudreau (or Hays), Buchanan, Chalifoux, Christensen, Cochrane, Eyton, Furey, Kenny, *Lynch-Staunton (or Kinsella), Sibbeston, Spivak, St. Germain, Taylor.*

FISHERIES**Chair: Honourable Senator Comeau**

Honourable Senators:

*Boudreau, (or Hays)	Cook,
Carney	Furey,
Comeau,	Johnson,
	*Lynch-Staunton, (or Kinsella)

Deputy Chair: Honourable Senator Robichaud

Mahovlich,	Perry,
Meighen,	Robertson,
Perrault,	Robichaud, (Saint-Louis-de-Kent)
	Watt.

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Carney, Comeau, Cook, Doody, Furey, *Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Murray, Perrault, Perry, Robichaud (Saint-Louis-de-Kent), Watt.*

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Honourable Senators:

Andreychuk,	*Boudreau, (or Hays)
Atkins,	Carney,
Bolduc,	Corbin,

Deputy Chair: Honourable Senator Andreychuk

De Bané	*Lynch-Staunton, (or Kinsella)
Di Nino	Stollery,
Grafstein,	Taylor.

Original Members as nominated by the Committee of Selection

*Andreychuk, Atkins, Bolduc, *Boudreau (or Hays), Corbin, Carney, De Bané, Di Nino, Grafstein, Lewis, Losier-Cool, *Lynch-Staunton (or Kinsella), Stewart, Stollery.*

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Rompkey

Honourable Senators:

*Boudreau (or Hays)	DeWare,
Cohen,	Forrestall,
Comeau,	Kelly,
De Bané,	Kenny,
	Kroft.

Deputy Chair: Honourable Senator Nolin

*Lynch-Staunton, (or Kinsella)	Poulin,
Maheu,	Robichaud, (Saint-Louis-de-Kent)
Milne,	Rompkey,
Nolin,	Stollery.

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Cohen, De Bané, DeWare, Forrestall, Kelly, Kenny, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Milne, Nolin, Poulin, Robichaud (Saint-Louis-de-Kent), Rompkey, Rossiter, Stollery.*

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Milne

Honourable Senators:

Beaudoin,	Cools,
Buchanan,	Fraser,
*Boudreau (or Hays),	Ghitter,
	Joyal,

Deputy Chair: Honourable Senator Beaudoin

*Lynch-Staunton, (or Kinsella)	Nolin,
Milne,	Pearson,
Moore,	Poy.

Original Members as nominated by the Committee of Selection

*Andreychuk, Beaudoin, *Boudreau (or Hays), Cools, Fraser, Ghitter, Joyal, Kelleher, *Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson, Poy.*

LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Honourable Senator

Honourable Senators:

Atkins, Grafstein,
 Finnerty, Grimard,

Deputy Chair:

Poy, Robichaud,
 (L'Acadie-Acadia),
 Ruck.

Original Members agreed to by Motion of the Senate
 Atkins, Finnerty, Grafstein, Poy, Robichaud (L'Acadie-Acadia), Ruck.

NATIONAL FINANCE

Chair: Honourable Senator Murray

Honourable Senators:

Bolduc, Doody,
 *Boudreau, Finestone,
 (or Hays) Finnerty,
 Cools, Ferretti Barth,

Deputy Chair: Honourable Senator Cools

Kinsella, Moore,
 *Lynch-Staunton, Murray,
 (or Kinsella) Stratton.
 Mahovlich,

Original Members as nominated by the Committee of Selection
 Bolduc, *Boudreau (or Hays), Cools, Finestone, Finnerty, Ferretti Barth, Kinsella,
 *Lynch-Staunton (or Kinsella), Mahovlich, Moore, Murray, Perry, Stratton.

OFFICIAL LANGUAGES (Joint)

Joint Chair: Honourable Senator Losier-Cool

Honourable Senators:

Beaudoin, Gauthier,
 Fraser, Losier-Cool,

Deputy Chair:

Meighen, Robichaud,
 Rivest, (L'Acadie-Acadia).

Original Members agreed to by Motion of the Senate
 Beaudoin, Fraser, Gauthier, Losier-Cool, Meighen, Pépin, Rivest, Robichaud (L'Acadie-Acadia).

PRIVILEGES, STANDING RULES AND ORDERS

Chair: Honourable Senator Austin

Honourable Senators:

Austin,	DeWare,
Beaudoin,	Di Nino,
*Boudreau, (or Hays)	Gauthier,
Corbin,	Grafstein,
	Grimard,

Deputy Chair: Honourable Senator Grimard

Joyal,	*Lynch-Staunton, (or Kinsella)
Kelly,	Robichaud, (L'Acadie-Acadia).
Kroft,	Rossiter.
Losier-Cool,	

Original Members as nominated by the Committee of Selection

*Austin, Bacon, Beaudoin, *Boudreau (or Hays), DeWare, Gauthier, Ghitter, Grafstein, Grimard, Joyal, Kelly, Kroft, *Lynch-Staunton (or Kinsella), Maheu, Pépin, Robichaud (L'Acadie-Acadia), Rossiter.*

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Senator Hervieux-Payette

Honourable Senators:

Cochrane,	Furey,
Finestone,	Grimard,

Deputy Chair:

Hervieux-Payette,	Perry,
Moore,	Rivest.

Original Members as nominated by the Committee of Selection

Cochrane, Finestone, Furey, Grimard, Hervieux-Payette, Moore, Perry, Rivest.

SELECTION

Chair: Honourable Senator Mercier

Honourable Senators:

Atkins,	DeWare,
Austin,	Fairbairn,
*Boudreau, (or Hays)	Grafstein,

Deputy Chair:

Kinsella,	Mercier,
Kirby,	Murray.
*Lynch-Staunton, (or Kinsella)	

Original Members agreed to by Motion of the Senate

*Atkins, Austin, *Boudreau (or Hays), DeWare, Fairbairn, Grafstein, Kinsella, Kirby, *Lynch-Staunton or (Kinsella), Mercier, Murray.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair:	Honourable Senator Kirby	Deputy Chair:	Honourable Senator LeBreton
Honourable Senators:			
*Boudreau, (or Hays)	Cook,	LeBreton,	Pépin,
Callbeck,	Fairbairn,	*Lynch-Staunton, (or Kinsella)	Roberston,
Carstairs,	Gill,	Murray,	Robichaud, (<i>Saint-Louis-de-Kent</i>).
Cohen,	Keon,		

Original Members as nominated by the Committee of Selection

**Boudreau (or Hays), Callbeck, Carstairs, Cohen, Cook, Di Nino, Fairbairn, Gill, Kirby, Lavoie-Roux, LeBreton, *Lynch-Staunton (or Kinsella), Pépin, Robertson.*

THE SUBCOMMITTEE TO UPDATE “OF LIFE AND DEATH” (Social Affairs, Science and Technology)

Chair:	Honourable Senator Carstairs	Deputy Chair:	Honourable Senator Beaudoin
Honourable Senators:			
*Boudreau, (or Hays)	Carstairs,	*Lynch-Staunton, (or Kinsella)	Robertson,
	Keon,	Pépin,	Robichaud, (<i>Saint-Louis-de-Kent</i>).

TRANSPORT AND COMMUNICATIONS

Chair:	Honourable Senator Bacon	Deputy Chair:	Honourable Senator Forrestall
Honourable Senators:			
Bacon,	Finestone,	LeBreton,	Perrault,
*Boudreau, (or Hays)	Forrestall,	*Lynch-Staunton, (or Kinsella)	Poulin,
Callbeck,	Johnson,	Maheu,	Roberge,
	Kirby,		Spivak.

Original Members as nominated by the Committee of Selection

*Adams, Bacon, *Boudreau (or Hays), Callbeck, Finestone, Forrestall, Johnson, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Perrault, Poulin, Roberge, Spivak.*

CONTENTS

Tuesday, February 8, 2000

	PAGE
Visitors in the Gallery	
The Hon. the Speaker	547

SENATORS' STATEMENTS

Black History Month 2000	
Senator Oliver	547
Northwest Territories	
Fort Liard Meeting—Motion on Oil and Gas Development	
Senator Sibbeston	547
The Late Halinka Dyer	
Tribute, Senator St. Germain	548
Toponymy Commission of Quebec	
Senator Bacon	549
Vimy House	
Senator Atkins	549
Alzheimer's Awareness Month	
Senator Callbeck	550
Supreme Court	
Decision on Right to Francophone School in	
Summerside, Prince Edward Island, Senator Callbeck	550
The Late Anne Hébert	
Tribute, Senator Pépin	551

ROUTINE PROCEEDINGS

Nisga'a Final Agreement and Appendices	
Nisga'a Nation Taxation Agreement	
Tabled, Senator Hays	551
Fisheries	
Report of Committee Requesting Authorization to Engage	
Services and Travel Presented, Senator Comeau	551
Adjournment	
Senator Hays	552
Criminal Code	
Bill to Amend—First Reading	552
Financing of Post-Secondary Education	
Notice of Inquiry, Senator Atkins	552

QUESTION PERIOD

Foreign Affairs

Austria—Possible Recall of Ambassador in Response to	
Appointment of Joerg Haider in New Government.	
Senator Kinsella	552
Senator Boudreau	552

Human Resources Development

Job Creation Programs—Possible Mismanagement of Funds—	
Request for Tabling of Reference Documents Used by	
Prime Minister in Response to Questions, Senator LeBreton ..	553
Senator Boudreau	553

Poverty

Request for Programs to Eliminate Conditions, Senator Roche ..	554
Senator Boudreau	554

Industry

Nova Scotia—Loss of Jobs at Royal Bank Offices in Halifax.	
Senator Oliver	555
Senator Boudreau	555
Purchase of Canada Trust by Toronto Dominion Bank—	
Request for Figures on Resultant Loss of Jobs.	
Senator Di Nino	555
Senator Boudreau	555

Human Resources Development

Job Creation Programs—Possible Mismanagement of Funds—	
Responsibility of Minister, Senator Meighen	555
Senator Boudreau	556
Senator Angus	556
Senator Hays	557
Senator Lynch-Staunton	557
Senator Kinsella	557

ORDERS OF THE DAY

Nisga'a Final Agreement Bill (Bill C-9)

Second Reading—Debate Continued, Senator Gill	557
Senator Taylor	560

National Defence Act

DNA Identification Act

Criminal Code (Bill S-10)

Report of Committee Adopted, Senator Milne	560
--	-----

Royal Assent Bill (Bill S-7)

Second Reading—Debate Continued, Senator Poulin	561
Senator Carstairs	563
Senator Grafstein	565
Senator Cools	565

Criminal Code (Bill S-9)

Bill to Amend—Second Reading—Debate Adjourned.	
Senator Cools	566

	PAGE		PAGE
Criminal Code		Senator Prud'homme	572
Corrections and Conditional Release Act (Bill C-237)		Senator Grafstein	573
Bill to Amend—Second Reading—Debate Continued.		Senator Cools	574
Senator Tkachuk	566	Senator Lynch-Staunton	574
Religious Freedom in China in Relation to United Nations International Covenants		National Defence	
Inquiry—Debate Continued. Senator Poy	567	Motion to Establish Special Senate Committee to Examine	
Senator Kinsella	571	Conduct of Personnel in Relation to the Somalia Department	
Distinguished Canadians and Their Involvement with the United Kingdom		and the Destruction of Medical Records of Personnel Serving	
Inquiry—Debate Continued. Senator Di Nino	572	in Croatia—Motion Stands. Senator Lynch-Staunton	574
		Senator Hays	575
		Appendix	i



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION •

36th PARLIAMENT •

VOLUME 138 •

NUMBER 25

OFFICIAL REPORT
(HANSARD)

Wednesday, February 9, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, February 9, 2000

The Senate met at 1:30 p.m., the Speaker in the Chair.

[English]

Prayers.

[Translation]

SENATORS' STATEMENTS

DAY OF RECOGNITION FOR BRAILLE

Hon. Marisa Ferretti Barth: Honourable senators, today, February 9, 2000, we are celebrating the first day of recognition for Braille in Canada. We all know what a difficult physical handicap the loss of one's sight can be. It is therefore appropriate to designate one day in the year to make all Canadians aware of the challenges that the thousands of blind persons in Canada must face.

We all know that, thanks to the Braille alphabet, blind persons can read and write. People with a serious handicap are thus able to thrive and to make a tangible contribution to our society.

What is not so well known, however, is the tragic history of Louis Braille, the person who invented this alphabet and gave it his name. He became blind as the result of an accident when he was four years old. It is sad that, throughout his life, he had to fight the prejudice coming from people who had normal vision but who could not accept that a blind person was intelligent enough to develop a system to allow the blind to read and to write. Louis Braille died of tuberculosis on January 6, 1852, at the age of 43.

Louis Braille was not very well known during his lifetime, and his death was not reported in any newspaper. In 1952, 100 years after his death, the ashes of Louis Braille were transferred to the Panthéon, in Paris, where he now rests beside some of mankind's great benefactors.

Posterity did justice to his work, which allows blind people from all over the world, regardless of their language and culture, from Albanian to Zulu, not only to read, but also to write in Braille, and thus communicate with the whole world.

I wish to convey my congratulations and express my support to all of the organizers of the Day of Recognition for Braille. On this day, these people are inviting us to see things from the heart, as the poet said.

REFORM OF THE SENATE

Hon. Donald H. Oliver: Honourable senators, some two years after being summoned to the Senate in 1990, I was instrumental in convening a meeting of the Conservative caucus to study the renewal and reform of this institution. We examined issues such as communication, the committee system, the election of the Speaker and other initiatives that could enhance the Senate without the necessity of constitutional change.

I raised the issue of jointly finding a way to implement some of the recommendations of our report with the then leader of the government in the Senate, the Honourable Joyce Fairbairn, but those discussions led nowhere.

Recently, my interest was rekindled with the release of a report by a British royal commission on reforming the House of Lords. Their recommendations are aimed at bringing that House of Parliament into the 21st century, making it a "house of the future."

As a member of one of the two remaining parliamentary chambers in Western democracies that are filled with appointees, it strikes me that we might want to do many similar things in Canada to modernize our institution of "sober second thought."

In Great Britain, the 216-page report stressed the need to bolster the independence and diversity of the upper house of Parliament by having a majority of the 550-member second chamber appointed by an independent commission rather than by the Prime Minister. As few as 65 or as many as 195 members, representing various regions in the United Kingdom, might be elected.

The report recommended that no political party should ever have a majority in a reformed House of Lords and specified that at least 20 per cent of the appointments, the equivalent of 110 members, must be independents with no political affiliation.

The commission has also called for a statutory minimum of 30 per cent of the new house, or 165 members, to be women, and that there be fair representation from religious and ethnic groups.

All 550 members of the upper house, whether appointed or elected, would have terms of 15 years.

As Lord Wakeham, a senior Conservative politician and the commission chairman, said:

We want to make sure that the second chamber will no longer be a source of political patronage. We genuinely believe a broad, representative cross-section of British society would be an extremely strong addition to the way we look at our legislation.

The report rejected the idea of having a fully elected upper house and argued that such a change would be too much of a challenge to the pre-eminence of the elected lower chamber. I think this also applies to our nation.

We have entered the 21st century and, as for all other things, change will be inevitable. It will come to the Senate of Canada. There is much that we can learn from the U.K. as they make their way through this reform process. In heeding their triumphs and errors in this process of renewal, we might make our transition into a "house of the future" a little easier.

• (1340)

BUSINESS OF THE SENATE

The Hon. the Speaker: I wish to inform honourable senators that at the moment seven senators wish to speak under Senators' Statements. However, it will be impossible to hear from them unless we extend the time for Senators' Statements or their comments are very brief.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wish to briefly comment in terms of granting leave from our side. In that this is a Wednesday, the Senate adjourns at 3:30 p.m. Therefore, it would be our intention not to grant leave to extend the time for either Senators' Statements or Question Period.

The Hon. the Speaker: In that case, I must inform honourable senators that there are nine minutes left for Senators' Statements. I have seven names and I will go by the order in which I have them listed.

[Translation]

QUEBEC

STATUS OF COURT CASES ON REJECTED BALLOTS IN 1995 REFERENDUM

Hon. Joan Fraser: Honourable senators, I should like to draw the attention of this house to a sad tale before it is relegated to the archives. It concerns the matter of the ballots that were rejected in the latest Quebec referendum.

[English]

As honourable senators may be aware, during the Christmas break the Chief Electoral Officer of Quebec, Madame Francine Barry, decided that she would not continue with the legal proceedings that had been instituted. You may recall, honourable senators, that in the referendum — in which the margin of victory was only 54,000 votes — 86,000 votes were rejected. In some ridings, the rejection rate was extremely high. In the riding of Chomedey, for example, 12 per cent of the ballots were rejected. In one poll, 53 per cent of the ballots were rejected; in another, 37 per cent were rejected.

As the result of investigative work done by *The Gazette*, a newspaper with which I was then proud to be associated, it was revealed that official representatives of the Yes side had conducted partisan training sessions in some regions for their own deputy returning officers. These sessions instructed the deputy returning officers how to reject ballots in ways that were contrary to the law. Charges were brought against 29 deputy returning officers and two official delegates of the Yes side, but only two trials were proceeded with as test cases.

The prosecution lost at every level of court up to the Quebec Court of Appeal. The Quebec Court of Appeal was very clear that the prosecution had lost, in part because the prosecution had done such a rotten job. In one of these two trials, for example, the prosecution called no witnesses. The Court of Appeal actually listed witnesses who should have been called and were not called. A Court of Appeal judge said that:

...I have no hesitation concluding that the two defendants rejected, in a patently unreasonable manner, perfectly valid ballots. The rejections resulted from the application of the guidelines that they were given by —

— the representative of —

— the Yes Committee.

Nonetheless, the Court of Appeal said that it could not convict the deputy returning officers because there was no proof — and this is because no evidence was brought forward — that they had fraudulent intent. They thought they were doing the right thing because they had been told by their official delegates to do the right thing.

We have here, honourable senators, a lovely Catch-22. The deputy returning officers cannot be convicted because they did not know they were doing anything fraudulent. Now the Chief Electoral Officer has said that because they were not convicted of an offence, the people who taught them how to commit the offence cannot even be tried. Nothing further will happen.

[Translation]

Honourable senators, this is sad and disappointing.

[English]

DAY OF RECOGNITION FOR BRAILLE

Hon. Joyce Fairbairn: Honourable senators, I wish to thank the Honourable Senator Ferretti Barth for drawing to your attention the fact that we have embarked upon a new day of recognition in Canada today, namely, a day of recognition for Braille; that is to say, a day of sending out a message of equality, strength, hope and independence to people across this country. Along with a fine ceremony that was held in the Railway Committee Room and attended by our own Speaker, who has been very supportive of this issue, we heard from a little 11-year-old boy, Marc Charron, who lost his sight two years ago to cancer. He has just begun to learn Braille. Along with Deputy Prime Minister Herb Gray, he read, through Braille, the proclamation of this special day.

Honourable senators, the ceremony also focused on releasing a kit for families, acknowledging, once again, that the ability for children to learn is centred in the ability and responsibility of families to teach. There are amazing tools available to assist not only blind parents so that they may read with a sighted child but to assist blind children to follow along while their parents read to them. The fact that such precious books exist in Braille is the message today. Words and knowledge are for everyone — be they sighted or blind. The magic of Braille includes all ages, from the smallest child to Canadian seniors, from whom we all learn so much.

Honourable senators, today will be celebrated each year as the day when we realize that Braille literacy is all about giving people a fair chance to use their abilities to reach out and set their own goals — not our goals — and reach for their own dreams. That is what literacy means; that is what Braille means. You put them together and you are changing people's lives.

• (1350)

I want to thank everyone who was part of that ceremony today. The Canadian government is a partner with the Canadian National Institute of the Blind and the World Blind Union. This program helps Canadians, and I am very proud to be involved with it.

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS— POSSIBLE MISMANAGEMENT OF FUNDS

Hon. David Tkachuk: Honourable senators, almost every year that I have been in this chamber, I have written or spoken about the subject of tax cuts and the burden carried by middle-income Canadians. I have also spoken on a number of occasions about the issue of parliamentary responsibility and ministerial responsibility.

The government keeps insisting that the burden to taxpayers is necessary and would cost the national treasury too much to

change. I finally figured out why this argument has been so forcefully put by the present government. This argument goes as follows: As soon as you begin earning more than \$6,800, the government will reach into your pocket and begin taking your money. They continue to squeeze the vise until, at \$50,000, they have half of your money. Then government members, who have been elected to protect your cash, squander it by giving money to large corporations like Videotron, for example, to the tune of \$2.5 million; or \$400,000 to the Cape Breton coffin factory which was dead on arrival — only three coffins were ever sold — or over \$30 million to Jane Stewart's riding, which is equal to a tax cut of \$649 per household. Instead, they gave it away in grants to Jane Stewart's riding! That is more money than even the NHL was requesting, which is impossible to believe.

Then, when an auditor finds out that there are huge problems in administration, that records are not being kept, that application forms are not being processed, that reasons for grants are not given, that businesses do not know what they have done with their money, that there was pork-barrelling before the election in 1997, we are told that no one is responsible. No one is responsible — not the civil servants, of course; not the senior managers in the civil service; not the deputy minister; not the former minister; not the present minister; not the Prime Minister; not the Liberal government; no one, absolutely no one.

Some Hon. Senators: Shame!

Senator Tkachuk: There are no consequences. There is no ministerial responsibility. I say shame on Jane Stewart. I say shame on Pierre Pettigrew. I say shame on Jean Chrétien. I say shame on the Liberal government and I say shame on all the Liberals protecting the indefensible.

Some Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

LIBRARY OF PARLIAMENT

ANNUAL REPORT OF PARLIAMENTARY LIBRARIAN TABLED

The Hon. the Speaker: Honourable senators I have the honour to table the performance report for the Library of Parliament for the fiscal year ending March 31, 1999.

[Translation]

CENSUS RECORDS

LETTER FROM QUEBEC FEDERATION OF GENEALOGICAL SOCIETIES TABLED

Hon. Lorna Milne: Honourable senators, with leave of the Senate, and pursuant to rule 28(4), I should like to table a document from the Quebec Federation of Genealogical Societies and its 31 societies, which have 10,871 members.

[English]

Since discretion is the better part of valour, I will continue in English.

Some Hon. Senators: Order.

The Hon. the Speaker: Is leave granted?

Senator Lynch-Staunton: For what?

The Hon. the Speaker: Senator Milne, a question has been raised: Why should leave be granted?

Senator Lynch-Staunton: Why are you asking for leave?

Senator Milne: I am asking for leave to table a document sent to me by these 31 societies. Since it is a matter on which there is legislation before this house, I cannot do it as a member's statement. I am asking leave to table this document.

Senator Lynch-Staunton: It sounds like a petition.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Milne: The letter requests that the confidentiality clauses of the Statistics Act be lifted to permit the release of the 1911 and subsequent census to the public.

Senator Lynch-Staunton: Table the document. Do not debate it.

Senator Milne: I am tabling it.

Senator Kinsella: Get some order over there, will you?

QUESTION PERIOD

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF FUNDS—RESPONSIBILITY OF MINISTER

Hon. W. David Angus: Honourable senators, I revert to the subject of yesterday and these deplorable grants — the boondoggle. On October 5 of last year, an internal audit containing grave and shocking revelations of improprieties was delivered to the Minister of Human Resources Development Canada. Incredibly, the minister kept this document under wraps until the beginning of the year 2000.

Senator Kinsella: Shame!

Senator Angus: Indeed, during November of last year, she stood day after day in the other place, misleading Canadians by

saying everything is just fine; everything is tickety-boo in her department.

Honourable senators, the minister dodged this issue in the other place. Worse, she did not come clean with Canadians until she was caught red-handed on the date when the very existence of this auditor's report was disclosed. Then in January, knowing that the jig was up, the minister made the audit public.

Honourable senators, I personally would like to know if this minister will do the honourable thing and resign.

My question is to the Leader of the Government in the Senate: How does the Leader of the Government feel about his own good reputation being sullied by these events and by association with the Minister of Human Resources Development? When will she do the honourable and traditional parliamentary thing and resign her portfolio?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I note in the address of the honourable senator a certain frustration. That frustration results from having seen the problem shrink from a \$3-billion problem to a \$1-billion problem, to a \$300-million problem, to a \$33-million problem, to a \$10-million problem. I would say that it will shrink to a problem of infinitesimal size as that audit continues. In fact, I repeat, the Prime Minister's assurance to the people of Canada, that any money, even a nickel, that went to any project when it should not have, will be repaid.

• (1400)

The comment of the honourable senator ignores the fundamental fact that this was an internal audit initiated by the department itself. They were not caught at anything. The department initiated an internal audit, as responsible departments should do from time to time, and the minister is acting on that audit.

JOB CREATION PROGRAMS— POSSIBLE MISMANAGEMENT OF FUNDS

Hon. W. David Angus: Honourable senators, the Leader of the Government in the Senate refers to this as a problem. A problem? This is an unbelievable boondoggle. We now know that just before the 1997 general election the number of approvals for these boondoggle grants skyrocketed.

Senator Bryden: Is that a Reform boondoggle?

Senator Lynch-Staunton: Frank McKenna's call centre.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: Order, please. I should like to remind all honourable senators that there are only 30 minutes for Question Period. If the time is used for other purposes, I will obviously have to cut off some questioners.

Senator Angus: Honourable senators, from January to May of 1997 approvals of these boondoggle grants went up by 1,000 per cent. Ridings held by Liberal MPs received substantially higher grant amounts than did ridings held by other MPs, and ridings held by cabinet ministers received even more. They hit the jackpot. This was blatant pork-barrelling. It was a bald attempt to buy votes from constituents in those ridings at public expense and to preserve jobs. Preserve jobs for whom? For Liberal candidates.

What does the Leader of the Government have to say to Canadians at large about such a blatant and unbelievable mismanagement of billions — it is \$3 billion, but probably \$100 billion — of their hard-earned money?

Senator Kinsella: What is a billion?

Senator Angus: The honourable leader does not even know.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am a little puzzled, as I have been over the last number of days.

Senator Lynch-Staunton: As has the Prime Minister.

Senator Boudreau: I want to share with honourable senators the reason for my puzzlement. I know that honourable senators on the other side can help me to resolve my dilemma. My dilemma is that I continue to wonder whether honourable senators support these programs since there are continual references to wasting billions of dollars. I would like to point out that many of these are national literacy programs and programs for youth employment. What is the position of honourable senators? Do they support these programs or not?

Senator Lynch-Staunton: Coffee machines!

Senator Boudreau: Anyone who rises in their place to criticize these programs has an obligation to the people of this country to indicate, as a preface to their criticism, whether they support these programs. I say freely and without reservation that I support these programs.

Senator Angus: How much did your riding get? Shameful pork-barrelling.

Senator Boudreau: I think the obligation lies firmly with opposition senators to do that.

In respect to the specific question that was raised, I asked about the Transitional Jobs Fund because there was some suggestion that funds for that program were used in an election campaign.

Senator Kinsella: Table the document!

Senator Boudreau: Throughout Canada, of the 520 Transitional Jobs Fund projects that were approved, only 9 per cent were approved between the time the writ was dropped and election day. Of those, only two project approvals were

announced during the election campaign. I believe there was one in British Columbia and one in New Brunswick; that is not excessive.

Senator Kinsella: Table the document. Is that from Don Boudria?

Senator Carstairs: I rise on a point of order.

The Hon. the Speaker: Honourable senators, I cannot hear a point of order until after Orders of the Day.

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF FUNDS—REQUEST FOR TABLING OF REFERENCE DOCUMENTS USED BY PRIME MINISTER IN RESPONSE TO QUESTIONS

Hon. Marjory LeBreton: Honourable senators, yesterday we witnessed the cavalier manner in which the government treats this very serious issue of millions of wasted taxpayers' dollars. There was great frivolity and laughter in the other place. This morning we were treated to another song and dance sideshow by members of the Reform official opposition. This is no laughing matter. As parliamentarians we owe it to the public to act responsibly.

I will ask the same question I asked yesterday. Will the Leader of the Government in the Senate obtain and table the book of documents the Prime Minister is using to deflect and, indeed, to mock his questioners, including any documents that refer to projects in the riding of Saint-Maurice, which were obviously pursued and supported by Member of Parliament Jean Chrétien?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I agree with my honourable friend that this is a very important issue. However, there are two elements of the issue that interest me. One, of course, is the normal response to an internal audit. I do not diminish the importance of an appropriate response, and the minister has the responsibility to ensure that an appropriate response is given. I believe that she has outlined a plan and she will ensure that there will be an appropriate response.

The second element that interests me is that the audit brings to the floor of this chamber the very fundamental issue of whether or not we support these programs. I find it incredible that the opposition's negative response to these internal audit results may put some of these programs at risk.

To answer the specific question of the honourable senator, any documents produced during Question Period or at any other time in the House of Commons is a matter for the House of Commons. I give my commitment that any documents utilized here that should be tabled will be tabled.

Senator LeBreton: Honourable senators, the Leader of the Government in the Senate is a member of cabinet. I am talking about a document that a cabinet minister handed to the Prime Minister, who used it in the House of Commons. That occasioned great laughter. It was a big sideshow.

That document was obviously put together by bureaucrats and politicians. Why can that document not be made public? The Leader of the Government says that these are legitimate programs. I say that these programs will lose their legitimacy because people will not support them if they believe that they will become part of a propaganda tool.

Senator Boudreau: Honourable senators, I am not 100 per cent certain as to what the honourable senator is referring. As I said yesterday, if any member of Parliament or senator takes a position in support of a particular program, they should not be afraid that in the future their support may be made public. Why would that bother anyone? If you support it, you support it.

JOB CREATION PROGRAMS—
POSSIBLE MISMANAGEMENT OF FUNDS

Hon. Pat Carney: Honourable senators, my question is directed to the Leader of the Government in the Senate who has invited us to stand in our places in this chamber and say whether we support these programs. I am standing in my place to say that I do not support a program under which people are allowed to buy jewellery with my tax money. My question is: Do you?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the programs of which we speak, as the honourable senator knows, are wide-ranging programs that essentially bring support to less privileged members of society. I ask the honourable senator whether she supports such programs.

I believe that when an internal audit raises issues, every one of those issues should be addressed. However, having said that, I also say that the program is a legitimate program, one that I am proud of and support.

Senator Lynch-Staunton: No matter how they spend the money?

• (1410)

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT
OF FUNDS—REQUEST FOR TABLING OF AUDITED FILES

Hon. David Tkachuk: Honourable senators, I have noticed that the Leader of the Government in the Senate, as well as the Prime Minister in the other place, consistently pull out letters from files about particular programs they think we want to hear about. I have a list of all of the programs, and I do not think the government can pick and choose what it wants.

I believe what the government leader should do — and what he is obligated to do now that he has pulled out one or two files to show us what a great government this is and how we do not know what we are doing — is table every one of these files, if he can find them, and present them in the Senate. Then we will decide whether we like these programs or not.

Senator Lynch-Staunton: Well done!

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, seven programs were the subject of the audit. Let me tell you what they were. The honourable senator wants to know.

Number one is the Opportunities Fund, which helps Canadians with disabilities find jobs. Now, who supports that? We support that program. There are literacy programs, which pay for projects that help Canadians learn how to read and write. Who supports that? We support that program. Youth Internship Canada helps young Canadians get work experience. I support that program. Does my honourable friend support that program?

Senator Lynch-Staunton: Not the way you handle it.

Senator Boudreau: Youth Services Canada combines work experience and community service. We support that program. The Summer Career Placements Program helps students get summer jobs. There are also self-employment assistance programs that help people on EI start a business.

Senator Lynch-Staunton: Applaud!

Senator Tkachuk: Answer the question.

Senator Boudreau: Those honourable senators who rise to criticize have an obligation to the people of this country to indicate which of these programs they do not support.

Senator Lynch-Staunton: Applaud, applaud! Come on, guys, you are losing your enthusiasm.

Senator Kinsella: Now answer the question.

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT
OF FUNDS—INFLUENCE ON OTHER FISCAL POLICIES

Hon. Terry Stratton: Honourable senators, I fully support Senator Carney's statement. All senators on this side support that position. We do not support grants for jewellery and grants for Wiarton Willy.

Honourable senators, if the federal government is not being forthright with this file, how can we trust other fiscal policies, such as the upcoming federal budget?

Senator Di Nino: We cannot trust them. You know that.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I appreciate that my honourable friend may object to one or more of the audit discrepancies and irregularities that were pointed out. I object to that, too. I feel that everyone should submit proper receipts, whether it is an aboriginal group in northern Canada or a youth group in Cape Breton.

Senator Lynch-Staunton: Or a groundhog in Ontario.

Senator Boudreau: However, that does not mean that I am prepared to abandon the programs, nor do I think the minister or the government are prepared to abandon the programs.

Senator Lynch-Staunton: The shadow knows!

Senator Boudreau: In any event, we stand strongly behind our record of management. I believe that the strong economic condition of the country and the fact that we are about to have what is our third or fourth balanced budget in a row says a great deal for the management ability of this government.

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT
OF FUNDS—REQUEST FOR INDEPENDENT AUDIT

Hon. Terry Stratton: Honourable senators, I would have to dispute that when we are talking about a billion-dollar boondoggle, Wiarton Willy and jewellery. There is a question of credibility here.

By the way, the Leader of the Government in the Senate did not answer my basic question. How can we trust the upcoming budget? I refer him to a statement by a Liberal MP who told *The Toronto Star* that the Liberal caucus has been upset with the way the Prime Minister has handled the matter and said that so far the strategy has been all about managing the issue instead of talking about the underlying cause. That is from *The Toronto Star* of today.

Will the federal government, for the sake of credibility, allow an outside auditor to investigate allegations of fraudulent money distribution at HRDC?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the process that is being followed now — an internal audit which produced results that certainly interested the opposition — will be followed through to its conclusion. All files that have not been resolved already — amounting to approximately \$20 million — are in the process of being resolved by the very people who presented this audit. Surely, there is no doubt about their credibility. We should allow this process to come to its natural conclusion.

I suspect some opposition members may fear that moving the process to its natural conclusion will reveal a rather infinitesimal situation instead of their billion-dollar boondoggle and that they will be supremely embarrassed at the final result.

Honourable senators, let me answer specifically the question of why we should have confidence in the budget. We should have confidence because this Finance Minister will be presenting another balanced budget in a succession of balanced budgets. That has not been seen since Confederation, and with each successive budget the minister has met or bettered all of his targets.

Senator Stratton: Honourable senators, I keep telling the minister what I told his predecessor: He cannot take credit for a surplus. The people of Canada sacrificed for that surplus, not the government leader and not the Finance Minister. Do not forget that, because I will take him to task every time he brings it up.

Can the Leader of the Government answer my question? Will he or will he not support an independent audit? This is like

having the coyote in the henhouse checking on the chickens. He has got to be kidding!

Senator Boudreau: The honourable senator now casts doubt on the very audit that he relies upon to raise the issue. This seems to me a strange situation. I would fully agree with the honourable senator that the people of Canada are responsible for the surplus. However, it is a bit like the gardener who was having a conversation with his local minister who had passed a compliment on his garden. The minister suggested that God had done a wonderful job with his garden, and the gardener said, "Yes, but he did not do much when he was on his own."

Senator Stratton: Is my honourable friend telling us something?

Senator Kinsella: And the parable is?

Senator Boudreau: The people of Canada were prepared to work for a surplus when the previous government was in office and somehow it just never happened.

AGRICULTURE AND AGRI-FOOD

FARM CRISIS IN PRAIRIE PROVINCES— RESPONSE OF GOVERNMENT

Hon. Leonard J. Gustafson: Honourable senators, I should like to know from the Leader of the Government in the Senate whether the government will be standing with the farmers in this serious national farm crisis?

Senator Lynch-Staunton: Yes or no.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I think my honourable friend will know that on January 14, Minister Vancielief indicated that in addition to the \$170 million that was announced earlier, another \$1 billion would be available in new federal funding over a two-year period on a cost-shared basis.

Senator Lynch-Staunton: Yes, but it was conditional!

Senator Boudreau: That offer has not been taken up, as I understand, by all of the provinces and discussions continue. I understand that some farmers in Saskatchewan are having discussions at the moment with their provincial government. Perhaps this matter will move along and additional provincial money can be brought to bear.

Senator Gustafson: Honourable senators, the AIDA program has not worked. In the words of Mr. John Harvard, Chair of the House of Commons Standing Committee on Agriculture and Agri-Food, "It's a mess. It's not working."

The AIDA program has not worked. We have been at this for almost two years. We are two and one-half months from seeding. Senator Sparrow and I had farmers from Saskatchewan, Manitoba and Alberta in our offices yesterday telling us that they do not know how they will plant a crop.

• (1420)

This is a very serious national issue. The government has made no advancement toward a long-term program in two years. The monies that were put out have been handled poorly, with administration costs that are unreasonable. If the government had chosen to pay monies out through the Canadian Wheat Board, the process could have been completed in three days. This situation has been mishandled terribly and farmers are in desperate need, and the Leader of the Government in the Senate knows that.

As the Chairman of the Agriculture Committee, I have spoken to senators on both sides of this chamber, and there is tremendous support for the needs of farmers. Yet the government is not reacting. I ask again: Will the government take serious action? Will the Prime Minister take serious action to move on this issue? Will the Leader of the Government in the Senate bring this issue to the cabinet and to the Prime Minister?

Senator Boudreau: Honourable senators, I freely admit that I am not an expert on this subject, and I rely, as others do, on the honourable senator's background and knowledge, along with the background and knowledge of members of our caucus.

With the recent announcement, if the additional federal money that has been added since I have held this position were cost-shared on the normal 60-40 basis, it would have amounted to about \$1.8 billion. I am not suggesting for a moment that such a contribution would solve all the problems, but it is a significant amount of money. I think the honourable senator will agree.

I believe that the Minister of Agriculture is prepared to have further discussions with respect to existing programs and some of the problems with respect to administration. However, part of the difficulty has been a reluctance on the part of some provincial administrations to participate at all. This may or may not affect the federal government's commitment, but it does affect the amount of assistance that will be available for farmers.

Senator Gustafson: If I may come to the defence of Premier Romanow of Saskatchewan, the Saskatchewan government does not have the tax base to support the 65 per cent of Canadian grain producers who live in Saskatchewan. The Province of Saskatchewan cannot meet the federal government contributions. It is an impossibility. Manitoba has the same problem. Alberta can do it because they have oil money.

Would the Leader of the Government in the Senate convey the reality of the situation to the Prime Minister and to the Minister of Agriculture? We will not have an agricultural industry if commodity prices remain where they are today. Reason must prevail.

Senator Boudreau: Honourable senators, I will certainly convey the honourable senator's message, as I have in the past, to the minister and to the Prime Minister. However, I do not know if I would be prepared to let Saskatchewan off the hook

quite that easily since it was the first or second province in the country to balance its budget. It has been in a healthier fiscal situation than most of the provinces.

Senator Gustafson: On the backs of the farmers!

Senator Boudreau: The honourable senator says "on the backs of the farmers," and that is exactly right. In the process, the amount of assistance available from the provincial government has decreased some 70 per cent. At this stage, I recognize there is limited fiscal capacity, but for the Premier of Saskatchewan to say that he is not interested in cost-sharing and then to expect the federal government to solve the situation is not a responsible position.

Senator Gustafson: Honourable senators, the record will show that about \$4 billion was taken out of agriculture to balance the books of the federal government. With all due respect, does the Leader of the Government in the Senate not feel that some of that should be repaid to the farmers, given that commodity prices are at an all-time low since the 1930s?

Senator Boudreau: Honourable senators, I think the honourable senator is correct. Indeed, Minister Vanclief put \$1 billion dollars on the table on January 14, which represents a significant federal commitment. It was not the first commitment and I hope it will not be the last.

FARM CRISIS IN PRAIRIE PROVINCES—FAILURE OF NEGOTIATIONS ON PROVISION OF SUPPORT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wonder, by way of a further supplementary question, if the minister might explain to this house why those negotiations held between the provinces, particularly the Provinces of Saskatchewan and Manitoba, and the federal government failed?

If negotiations between the federal government and our grain growing provinces failed on a subject that we agree on, why should we place any faith in this preposterous proposal of Bill C-20 to have negotiations in the matter of secession or the breakup of Canada, which would inevitably fail?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, any time negotiations do not achieve their desired result, there is regret on all sides, and casting blame in the situation serves no purpose.

The basic position by at least one of the provinces, as I understand it, is that they did not want to participate further in any cost-sharing arrangement. That might have created some of the difficulty. One hopes that both the provinces involved and the federal government will get together and achieve productive and efficient amendments to the programs. One also hopes that the \$1 billion of additional federal money that has been on the table since January 14 will get to the farmers as quickly as possible.

Hon. A. Raynell Andreychuk: The Leader of the Government has said there is \$1 billion on the table, but that is not the case. The funds will not appear immediately once the management problems are solved, and the disbursement of the monies is also spread over a number of years.

The question from Saskatchewan farmers is: Why is that money not now available? It is needed immediately. If there is \$1 billion, put it on the table today so that the farmers can use it before the seeding year. These conversations and these meetings continue to go on. If farmers do not put their crops in this year, with the assistance of the government, they will not be able to stay on their farms. They will be gone. You will then be dealing with farmers who probably do not need assistance.

We are trying to maintain a rural base in Saskatchewan. We are trying to keep the viable family farms running. These are not the inefficient farmers; they are the viable farmers.

How do I answer citizens in Saskatchewan who ask, "If the federal government is serious, why are they not giving us the money when we need it?" The second question they ask is, "If there is money for job creation, can these farmers who are being squeezed out of their farms apply under the Human Resources Development programs, as well as all these others who have received grants?"

Senator Boudreau: Honourable senators, with respect to the program, I believe I indicated in my earlier response that the billion-dollar commitment is over a two-year period.

I am sure the federal government and the minister are anxious to have this money reach the farmers as efficiently and speedily as possible, in order to deal with the problems to which the honourable senator has drawn our attention.

Senator Andreychuk: Is there any assurance that this money will come now? I am hearing the same comments each time.

The Hon. the Speaker: Honourable senators, time for Question Period is over.

• (1430)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate by Senator Stratton on December 1, 1999, regarding cost overruns in capital expenditures on embassies abroad; a response to questions raised in the Senate by Senators Roche, Wilson and Andreychuk on December 7, 1999, regarding the report of the Canadian Council for International Cooperation; a response to a question raised in the Senate by Senator Oliver on December 8, 1999, regarding Air Canada, increase in air fares; a response to a question raised in the Senate on December 9, 1999, by Senator Spivak regarding Alberta's announcement to process imported hazardous waste at Swan Hills Treatment Plant; a response to a question raised in the Senate on December 14, 1999, by Senator Spivak regarding possible regulations regarding addition of

caffeine to beverages; a response to a question raised in the Senate on December 15, 1999, by Senator Tkachuk regarding term limits of members of the Canada Pension Plan Investment Board; and a response to a question raised in the Senate on December 15, 1999, by Senator Di Nino regarding restructuring of the airline industry, effect of Air Canada monopoly.

FOREIGN AFFAIRS

COST OVERRUNS IN CAPITAL EXPENDITURES ON EMBASSIES ABROAD

(Response to question raised by Hon. Terry Stratton on December 1, 1999)

The honourable senator asked about capital expenditures on embassies abroad and what measures were being taken to control costs.

In referring to the article which appeared in *The Ottawa Citizen*, the honourable senator was no doubt referencing the article regarding the recently tabled Annual Report of the Auditor General of Canada.

That report is interesting reading. Although it does indeed cite examples in which the initial preliminary ballpark estimates were exceeded by actual project costs, it also clearly concludes: "The audit confirmed that valid reasons existed for initiating each of the projects. Overall, projects were delivered within budgets and project schedules. Contracts were awarded on a competitive basis and change orders were well managed (and the auditors) noted several positive initiatives to address environmental concerns."

With regard to the specific examples raised, the Seoul project has not been cancelled. The construction contract was terminated since it committed the Department to a construction cost that had been negotiated before the Asian economic turmoil; that is, it failed to reflect the current realities of the marketplace in terms of the cost of construction in Seoul today. The Department is currently reassessing its options for a long-term solution to its accommodation requirements in Seoul. If the decision is to construct a new facility, there will have been no "opportunity cost" associated with the expenditure for the acquisition of the land; rather, it will have been proven to be a cost-effective and economically valid decision. If the decision is to lease, then the site will be surplus. There will be no opportunity cost, however, unless the selling price is less than the original purchase price plus accrued interest on that amount (i.e., the so-called opportunity cost). Given the strength and the speed with which the Korean economy is rebounding, the Department expects its investment in the site acquisition will prove to be economically sound and fiscally responsible.

On the official residence project in New Delhi, the project encompassed a complete reconstruction of the existing residence, i.e., the floors were taken right down to the concrete slab, the roof was completely replaced, complete new mechanical, air conditioning and electrical systems were installed, and so on. Nonetheless, the reconstruction of the residence, at a total cost of \$1.5 million, was completed on schedule and was more cost effective than constructing a new residence at an estimated cost in excess of \$2 million.

The costs for the Chancery project in New Delhi increased over the initial 1988 estimate because of significant scope changes (e.g., necessary renovations and improvements to the mechanical and electrical systems in the original chancery to accommodate the addition), increased on-site management costs (i.e., a site manager was sent to Delhi and assigned to the project full time) as well as additional travel costs due to closer management and control being exercised over the project by the Ottawa-based project manager. These increases were explained to and approved by Treasury Board in a February 1993 submission. The Auditor General noted in his report that "The project was delivered on budget and approximately five months behind schedule."

In Bangkok, the cost and schedule increases were the direct result of a strike in the local construction industry, an event over which the Department had no control.

The Auditor General noted that "there are significant risks and challenges in delivering projects outside Canada." Nonetheless, the auditors concluded that "projects were generally delivered within their approved budgets and that the nature and extent of project delays were reasonable." In fact, for the five completed projects reviewed by the auditors, Exhibit 31.4 of the Auditor General's report specifically indicates that the Department had approved substantive estimates for a total of \$60.2 million but that it actually delivered the projects for a total of \$59.6 million.

While the Auditor General also noted that "projects were successfully implemented", he also concluded that "better planning and analysis of options are required." The Department has responded in a positive manner to the report. In addition to continuing with the implementation of the ongoing improvements in the management of its property program that were noted by the auditors, the Department also prepared an action plan containing ten (10) specific items, which was also included in the report and which committed the Department to reporting to Treasury Board on progress achieved on the action plan.

REPORT OF CANADIAN COUNCIL FOR INTERNATIONAL
CO-OPERATION—RECOMMENDATION TO ESTABLISH TASK FORCE—
PLAN TO ESTABLISH COHERENT FOREIGN AID POLICY—
COMPOSITION OF BUDGET FOR FOREIGN AID—PROVISION OF
FOREIGN AID CONDITIONAL ON
HUMAN RIGHTS RECORD—GOVERNMENT POLICY

*(Response to questions raised by Hon. Douglas Roche,
Hon. Lois M. Wilson and Hon. A. Raynell Andreychuk on
December 7, 1999)*

1. Issue: Recommendation to establish task force

Canada's foreign policy statement was developed after extensive cross-Canada consultations by a Special Joint House-Senate Committee. It provides a clear mandate — including a focus on poverty reduction — for the Official Development Assistance (ODA) program, and this broad policy framework remains valid today. One of our challenges is to ensure that our specific policies keep pace with global change and continue to reflect the Canadian people's vision of a just and prosperous world. In meeting with this challenge, we are pleased to receive and consider CCIC's analysis and recommendation on policy and program as part of our ongoing engagement with partners in international development.

2. Issue: Plan to establish coherent foreign aid policy

The Canadian government is committed to ensuring that its foreign policies in aid and trade are consistent with Canada's international commitments on protecting human rights and promoting responsible environmental management.

Within the government itself, Canada uses both formal and informal mechanisms of interdepartmental coordination and consultation to ensure complementarity in its foreign policies.

Canada has promoted policy coherence in a variety of multilateral fora, including the World Bank and the International Monetary Fund (IMF), as well as the Organization for Economic Cooperation and Development (OECD).

3. Issue: Composition of budget for foreign aid

Poverty reduction is at the core of CIDA's mandate and programming. The most fundamental element is helping people to meet the minimum requirements of daily life, which is why the Government is committed to providing 25 per cent of Canada's development assistance to meeting such basic needs as primary health care, education, nutrition, water and sanitation and humanitarian assistance. The Government has consistently surpassed that target.

Basic education is critical to bettering the lot of the world's children and it is a priority for CIDA. A CIDA Education Strategy will be released this year. In the area of health, CIDA's Leadership Initiative for Canada in Health and Nutrition is designed to measurably contribute over the next five years to the OECD's *Shaping the 21st Century* health goals.

With respect to humanitarian assistance, it is critical that CIDA responds to help meet the basic human needs of the most vulnerable in emergency situations; Canadians would expect their Government to do no less. In terms of spending, the percentage of the CIDA budget allocated to humanitarian assistance has remained constant. Peacekeeping expenditures are not included in the calculation of disbursements on basic human needs.

4. Issue: Provision of foreign aid conditional on human rights record

The Canadian Government position on aid and human rights has not changed.

Canada considers the support of human rights, democracy and good governance as a high priority in its development programs, and peacebuilding initiatives are among the tools for achieving objectives in this field.

CIDA develops its programming in human rights by analyzing the context of developing countries, the needs of partners, and the capacity to engage effectively. Each country situation has to be examined carefully and individually. In extreme circumstances, the government has to examine a range of measures including development assistance and other instruments of foreign policy. In evaluating measures to be taken, and before deciding on further action, Canada takes care to "do no harm" to those who are suffering abuses and whom we are trying to help.

The process is not coercive, rather Canada works with governments and civil society in developing countries to reinforce the mutual understanding and priority placed on these issues.

TRANSPORT

AIR CANADA—INCREASE IN AIR FARES

(Response to question raised by Hon. Donald H. Oliver on December 8, 1999)

The Government of Canada has stated repeatedly that it will not tolerate price gouging. Certainly, the best guarantee for reasonable air fares is viable competition. As such, we are committed to ensuring that measures are in place for new and existing Canadian carriers to expand into the

domestic market. However, we also believe that measures for ensuring that a dominant carrier cannot abuse its position, particularly on pricing, can be suitably enshrined in legislation. To protect the public interest, therefore, we are currently developing an effective legislative framework, especially with respect to fostering airline competition and preventing price gouging. We plan to introduce this legislation in February.

ENVIRONMENT

ALBERTA—ANNOUNCEMENT TO PROCESS IMPORTED HAZARDOUS WASTE AT SWAN HILLS TREATMENT CENTRE—GOVERNMENT POLICY

(Response to question raised by Hon. Mira Spivak on December 9, 1999.)

The federal Export and Import of Hazardous Wastes Regulations, pursuant to the *Canadian Environmental Protection Act*, provide for strict controls for any import of hazardous wastes into Canada, including a notification requirement.

As part of the import notification review process under the Export and Import of Hazardous Wastes Regulations, the authorities of the province where the waste is destined review the import notices. This review ensures that the receiving facility is authorized to perform the disposal operation as set out in its certificate of approval.

As with all proposed imports of hazardous waste, Environment Canada will ensure that all of the requirements of Export and Import of Hazardous Wastes Regulations are met before any import is allowed.

There is no project as defined under the *Canadian Environmental Assessment Act*. The provision under the federal Export and Import of Hazardous Wastes Regulations, requiring that a licence be obtained, does not demand that an environmental impact assessment be carried out. Therefore, the federal government will not be initiating the Environmental Assessment Review Process.

However, in 1992, Environment Canada participated in public hearings in Alberta on the proposed expansion of the Swan Hills facility, and provided a comprehensive technical review of the new incineration technology proposed. Environment Canada supported the use of the technology.

As well, during June and July 1994, the Alberta Natural Resources Conservation Board held public hearings into an application by Chem-Security (now referred to as Bover Waste Management) to allow the unrestricted importation of hazardous wastes into Alberta from other Canadian jurisdictions for proper disposal.

Environment Canada made a presentation to the Board in which it supported a harmonized approach to waste management in Canada if the associated facilities and transportation systems are designed and operated in accordance with applicable federal and provincial regulations, guidelines and codes. A federal panel of experts was also made available to the Board to answer questions on the current management of wastes in Canada and the risks associated with current and proposed practices. Environment Canada supported the application to utilise the facility to process wastes from other Canadian jurisdictions. The issue of potentially processing wastes from outside of Canada was not discussed.

HEALTH

POSSIBLE REGULATIONS REGARDING ADDITION OF CAFFEINE TO BEVERAGES

(Response to question raised by Hon. Mira Spivak on December 14, 1999)

Caffeine has been listed as a food additive in Canada's food and drug regulations since inception of the food additive regulations in 1964, and had been used to modify flavour in cola-type beverages long before that time. Canada is one of the few countries that closely regulates the use of caffeine in soft drinks.

It is well known that caffeine is also naturally present in several foods, such as coffee, tea, and chocolate. When caffeine is used as a food additive, it must be listed on the label.

In 1996, a major international beverage manufacturer requested an amendment to the regulations to provide for the use of caffeine in all soft drinks, specifically to a citrus-flavoured product. In the United States, this product has contained caffeine for many years while in Canada caffeine cannot be added to this type of product. Such an amendment to the regulations in Canada would allow the company to standardize its formulation for all of North America.

Based on comments received during the consultation phase of a preliminary internal assessment process, Health Canada scientists initiated an extensive review of the effects of caffeine. It focussed primarily on the potential impact of caffeine exposure on children and women of childbearing age. The review has been peer-reviewed by Health Canada scientists and is currently in the final stages of an external peer-review. A careful examination of the potential

exposure to caffeine from soft drinks, as well as natural sources of caffeine, will also be conducted.

The current regulation limiting the use of caffeine to cola-type soft drinks will not be amended until a thorough review of all of the available safety-related data has been completed and there is convincing evidence that any proposed regulatory change will not adversely affect the health of Canadians of any age.

FINANCE

TERM LIMITS OF MEMBERS OF CANADA PENSION PLAN INVESTMENT BOARD

(Response to question raised by Hon. David Tkachuk on December 15, 1999)

In April 1998, the Standing Senate Committee on Banking, Trade and Commerce recommended that consideration be given to whether a limit should be placed on the number of times a director can be re-appointed to the board of directors of the CPPIB.

In the Minister of Finance's response to the Senate Committee's report, he indicated that several of its recommendations, including term limits for directors, merited serious consideration during the next CPP triennial review.

At the completion of the recent triennial review in December 1999, federal and provincial Ministers of Finance agreed that term limits would improve the governance of the CPPIB. Ministers felt three terms for directors and four for the Chair (if the last term was served as a director) were appropriate. There was agreement that this would balance the need for continuity of directors and an opportunity to renew the board.

The agreement on term limits for directors is consistent with the recommendation by the Standing Senate Committee on Banking, Trade and Commerce.

TRANSPORT

RESTRUCTURING OF AIRLINE INDUSTRY— EFFECT OF AIR CANADA MONOPOLY

(Response to question raised by Hon. Consiglio Di Nino on December 15, 1999)

On October 26, 1999, the Minister of Transport announced a Policy Framework for Airline Restructuring in Canada re-affirming that Canada's airline industry will remain owned and controlled by Canadians.

The airline industry is fundamental to the Canadian economy and is an important national symbol. Most countries retain national ownership requirements for their airlines and do not allow foreign carriers to serve their domestic markets.

Consultations with stakeholders and the public and Parliamentary hearings have confirmed that there is little public support for allowing cabotage which could put at risk the future health of Canada's airline industry.

Therefore, the Government does not intend to reconsider the current prohibition on cabotage.

ORDERS OF THE DAY

NATIONAL DEFENCE ACT DNA IDENTIFICATION ACT CRIMINAL CODE

THIRD READING

Hon. Joan Fraser moved the third reading of Bill S-10, to amend the National Defence Act, the DNA Identification Act and the Criminal Code.

She said: Honourable senators, yesterday Senator Milne gave us an excellent description of this bill as amended by the committee. As the sponsor of Bill S-10, I should like to say a few words about the outstanding work done by the Standing Senate Committee on Legal and Constitutional Affairs in reviewing this bill and the important improvements that resulted from that review.

I believe that the committee's contributions will help to provide Canada with an accurate and comprehensive national DNA data bank that will safeguard privacy interests over time.

[Translation]

The bill before us is the product of work done by the Senate, and by our committee in particular. The Solicitor General undertook to develop these provisions as a follow-up to the recommendations in the committee's sixteenth report on the DNA Identification Act passed last year. We had suggested additional measures and the Solicitor General undertook to include them in a new bill, which is before us today.

Given the background, the Solicitor General requested that this new bill be introduced first in the Senate, and I wish to thank him. Having had the opportunity to examine the proposed act, and regulations, before it was introduced in the House of Commons, we were able to sort out any issues of concern ahead of time.

[English]

One key feature of Bill S-10 is the authority it provides to issue warrants for the taking of DNA samples for military police investigations and DNA data bank orders — orders for storage of DNA identification profiles — for offenders who are convicted of serious and violent offences in the military justice system. These provisions match those already established for the civilian justice system. The committee thoroughly reviewed the proposed amendments to the National Defence Act to ensure that the new tools fully respect the well-conceived collection procedures and privacy safeguards that have already been included in the Criminal Code for civilian offenders.

As a result of the committee's work, some important improvements have also been made to Bill S-10, as Senator Milne pointed out yesterday. At the recommendation of the Solicitor General and the federal-provincial-territorial heads of prosecution, the committee passed changes to the National Defence Act and the Criminal Code to authorize peace officers or persons acting under their direction to take fingerprints at the same time that samples of bodily substances are collected for the data bank. This was done to ensure that the samples of bodily substances are taken from the right person and not from someone else — for example, someone who might have the same name as the person specified in a data bank order. It is an important safeguard and makes it clear that the DNA derived from the sample belongs to the person who has those fingerprints. It is just one more guarantee that the DNA in question cannot be tampered with in any way.

[Translation]

The committee consulted the Privacy Commissioner about these changes. Mr. Phillips felt that, in most cases, they would contribute to the accuracy and integrity of the DNA data bank without violating the privacy of citizens.

The overall effectiveness of the bank is closely linked to the integrity of the identification process. In order to ensure full protection of the fingerprint information provided for in this bill, the legislative provisions state explicitly that they may only be stored in the DNA data bank. There is therefore no question of adding them to the RCMP's Automated Fingerprint Identification System for use in general criminal investigations.

[English]

In its consideration of this bill, the committee also undertook a careful review of the draft regulations which support the DNA Identification Act that was passed last year. To promote their practical effectiveness, committee members recommended that the draft DNA identification regulations be amended to require that the RCMP Commissioner's annual report on the national DNA data bank include a survey on the legal issues arising over the preceding year that relate to the DNA data bank.

We are pleased that the Solicitor General accepted this recommendation because we think it will ensure that Parliamentarians regularly receive valuable information that will assist us in evaluating whether the operation of the data bank is in conformity with the Charter and the privacy safeguards that exist under the legislation.

In conclusion, Bill S-10 exists in the first place because of the groundwork of the Legal Affairs Committee, and through further review of the committee, Bill S-10 has been made a stronger piece of legislation that will ensure the comprehensiveness of the data bank and protect the privacy rights of Canadians. This legislation, in conjunction with its supporting regulations, provides important safeguards to ensure the overall accuracy of the identification of individuals and the integrity of the national DNA data bank.

I believe that Bill S-10 will help give the police the most effective investigative tool possible to improve public safety, while respecting the privacy rights of all Canadians, and I think this chamber can take real pride in this legislation.

[Translation]

Hon. Pierre Claude Nolin: Honourable senators, on behalf of my party, I should like to add my comments without repeating the explanations given yesterday and today by my two colleagues. This is a very good bill.

Henceforth, DNA samples of all Canadians, military or civilian, found guilty of a violent offence will have to be taken. As Senator Fraser said, it is to the credit of our institution that we want to add this sampling to our body of statutes.

There is a small anecdote I would relate to those honourable senators who are not members of that august body, the Standing Senate Committee on Legal and Constitutional Affairs. We discovered on examining this bill that our friends in the other House, in their review of Bill C-3, which created genetic data banks for all Canadians except the military, saw fit to add offences to the list for DNA sampling.

Their enthusiasm cannot be criticized, but it must be given consideration when it has certain consequences. I do not wish to add to the weight of the debate, but bear in mind that there are two types of offences: primary offences permitting automatic sampling and a series of secondary offences. Also, for sampling to take place, the judge must conclude that the persons to be tried would be better served if samples were taken.

Our colleagues in the other House considered themselves inspired in adding a number of offences we call in the jargon of criminal law summary offences, for which the police cannot take fingerprints when they arrest someone.

• (1440)

The proposed system would ensure that the genetic fingerprint matches the identity of the person from whom it was taken. In other words, the DNA samples and the genetic fingerprints are

part of a register to ensure the identity of the records in question, and the cohesiveness of the system.

There is a problem, however. Because certain offences, the so-called summary offences, are not indictable offences, the taking of fingerprints is not allowed, but this is being authorized through the back door. This creates a problem and, being conscientious, we wanted to get to the bottom of the matter.

The problem was also addressed by officials of the Department of Justice. I must admit that we are satisfied with the answers we were given. The officers and employees of the RCMP responsible for the DNA bank gave us reassurances. Fingerprints taken along with DNA samples will be used only for DNA identification, and cannot be used for any other purposes.

We found this situation highly amusing, but in questioning the Justice officials, we found that offences had been added to Bill C-3. I do not believe our colleagues in the other place need to be reprimanded for their zeal, but we must be very vigilant and ensure that their zeal is appropriate.

Honourable senators, I encourage you to support this bill. From now on, Canadians found guilty of violent offences, even if they are in the military, will have their DNA samples taken and banked. This will certainly help solve crimes.

The Hon. the Speaker: Honourable senators, it is moved by Senator Fraser, seconded by Senator Ruck, that the bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to, bill read third time and passed.

[English]

NISGA'A FINAL AGREEMENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill C-9, to give effect to the Nisga'a Final Agreement.

Hon. Gerry St. Germain: Honourable senators, it gives me great pleasure today to lead off second reading on Bill C-9 for my party. Few pieces of legislation come to us that are described as groundbreaking and are designed to head in new directions, but that is the case with Bill C-9 and the land claims and self-government agreement it implements. It is the first such agreement to be concluded in British Columbia. It is the first modern land claim agreement and treaty in which powers of self-government are also included. Moreover, it has sparked public attention and discussion both in British Columbia and right across Canada.

The controversy that surrounds this bill has further polarized the politics in British Columbia, if that is at all possible. People in my province have expressed great concern publicly about this legislation and this treaty agreement. Some are confused, some are fearful, and some want more information.

I have questions regarding the process, the legislated effect of this agreement, the existing overlaps and what appears to many as the lack of closure and accountability regarding this agreement. Why was this agreement not done like the others? Here, I refer to the Sechelt, the Sahtu and the Gwitch'in. What must be a major concern is the following: Have all the questions been answered?

Great criticisms have been expressed by many British Columbians that the process of the House of Commons committee hearings did not hear both sides of the issue. As well, debate in both the House of Commons and the B.C. legislature was brought to a close by invoking closure, all the while giving critics the opportunity to accuse the government of attempting to conceal the facts. In Gordon Campbell's presentation, the Leader of the Official Opposition of B.C. told the House of Commons Standing Committee on Aboriginal Affairs and Northern Development that:

Our legislative and parliamentary institutions are failing British Columbians. The die is cast.

Here, he was referring to the House of Commons committee. He went on to say:

As one member of this committee has apparently said, the treaty is a done deal that won't be changed, regardless of these hearings. That same individual also said, "We're only in B.C. because of a tactic by the Reform Party to hijack —

— the committee.

This little song and dance is costing taxpayers \$500,000.

Honourable senators, I am truly disappointed that an agreement and a land claims settlement that should have brought Canadians together has resulted in such adverse publicity. It has actually driven a wedge between the two communities in certain cases, instead of building a bridge of common cause and understanding. This resulted, in my opinion, because of a lack of information. This void fed the confusion, creating a sense of uncertainty and fear, which we in the Senate have a duty to respond to in a positive manner.

Honourable senators, because what we are being asked to create here is new, we must tread carefully and examine this bill in great detail. I am sure that those who created the reserve system more than 100 years ago were well intentioned. Those who established the residential school system more than 100 years ago did so trusting and believing that this was the best way to raise and educate native children. The creation of the paternalistic, expensive and overly bureaucratic Department of Indian Affairs and Northern Development was designed

originally to help Canada's native people, not hinder their growth.

Honourable senators, these were seen as beneficial ideas in their time, but since then they have often been discredited. Therefore, we must ask throughout this entire process the following question: Is what we are doing the right thing? If it is not, it will be virtually impossible to change.

No matter what this agreement does, we must remember that the federal Crown will remain — at least I believe it will — in a fiduciary responsibility in relationship with our aboriginal people.

Honourable senators, it is my intention today to deal with the process that brought this bill before us and the evolution of our dealings with Canada's aboriginal peoples in the last 20 years. It is important to look at the role we, as parliamentarians, play in this process. Why is this bill here? Why is it necessary? Why are we only consulted at the end of the negotiations, when all the pieces have been put into place? I want then to deal with various aspects of the agreement that we are to implement with the passage of Bill C-9.

Honourable senators, I have been in politics for a considerable period of time. I have been a member of Parliament, a cabinet minister in the other place, president of a political party, and now I serve in this chamber with great honour as a senator. However, as a British Columbian, I have never seen a piece of legislation or a public policy document where the views on it are so opposed to one another. There seems to be, really, no middle ground, unfortunately. I hope we can correct that.

Those who support this arrangement laud it as the best solution possible for aboriginal issues. To them, there is no end to the good that this agreement will bring to the Nisga'a people in British Columbia and to the rest of Canada. Those who oppose it — at least those who oppose it for non-racial reasons — believe that it is not the answer to these issues and that it will lead the Nisga'a down the road to poverty, will create disputes with those who border Nisga'a lands and, if followed in other areas of negotiation with aboriginal groups, will lead to the carving up of British Columbia and the downfall of the economy and civil relations in that province.

Honourable senators, today and in committee I plan to ensure that a thorough review will be conducted in order to determine both the good points and the negative ones, if there are any, concerning this treaty.

• (1450)

My comments both here and in committee should never be construed as advancing a position that is against self-government for Canada's aboriginal peoples. I believe that aboriginal people should have self-government. My concern, and I believe it should be the concern of all of us, is whether Bill C-9 and the agreement are the most appropriate vehicles to accomplish that goal.

Honourable senators, in order to determine whether this is the most appropriate vehicle by which to accomplish the goals of all the parties concerned, I believe we should look back at the sections dealing with this issue in the Constitution Act, 1982. The Charter of Rights and Freedoms sets out in section 25 that the Charter rights:

...shall not to be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples...

Subsection 25(b) was amended by the first amendment to the Constitution so that this statement would include:

...any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

Section 35(1), under the heading "Rights of the Aboriginal Peoples of Canada," states:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

This was added to by the first constitutional amendment which, under subsection 35(3), states:

Treaty rights include rights that now exist by way of land claims agreements or may be so acquired.

Finally, subsection 4 states that these aboriginal treaty rights are to be "guaranteed equally to male and female persons."

The Constitution Act, 1982 and the first amendment dealing with aboriginal issues contain requirements for the first ministers of Canada to convene constitutional conferences on aboriginal issues within certain time frames.

Honourable senators, the reason for going through this in such detail is to point out that nowhere did it explicitly state that self-government was an "existing aboriginal right." In fact, most of the time spent at the conferences, when they were convened, was devoted to attempting to reach a definition of self-government.

Subsequent to these constitutional changes, the House of Commons struck a special committee on Indian self-government, chaired by MP Keith Penner. Its report, tabled in the House of Commons in 1983, dealt with many of the issues that confront us today in dealing with the Nisga'a agreement. Band memberships, the mechanics of achieving self-government, the powers to be exercised by a self-governing group, financial relations, et cetera, were all covered in this excellent document. The main conclusion, though, regarding the mechanics of establishing self-government was that there should be a constitutional amendment, which would establish a third order of government in Canada.

The federal government, rather than using the constitutional amendment route, determined during the rest of the 1980s and

1990s that an easier and quicker route to self-government or a form of self-government was through the route of legislation — legislation specifically tailored to meet the needs of the aboriginal groups seeking self-government. That route has been followed by many bands, including the Sechelt, the Yukon and others.

The main feature of this route was the fact that, while the aboriginal group could exercise certain powers, these powers would be delegated to it by the federal and/or provincial government. With delegation, there was no need to consider a constitutional amendment, as the delegation of power is a well-known legislative technique which meets with the approval of our judicial system.

In 1991, the Royal Commission on Aboriginal Peoples was established. In its report, the commission speaks of a constitutional amendment recognizing a third order of government and suggesting various aboriginal groups which might seek self-government.

The 1992 Charlottetown accord also contained a prescription for aboriginal self-government to be achieved through constitutional amendment, but, as we all know, the plan set out in the accord was rejected by both the population of Canada and the aboriginal peoples themselves.

We are now at the stage, honourable senators, where not only do we look to the Constitution for a determination of self-government, we must also look to the courts. As generous as the Supreme Court of Canada has been in its recognition of aboriginal rights, the comment of Professor Patrick Monahan of Osgoode Hall Law School in Toronto to the House of Commons Aboriginal Affairs Committee with regard to the Supreme Court should be noted:

...it has not yet endorsed expressly a right of self-government in the Constitution.

This history then forms the backdrop against which we must analyze the Nisga'a agreement and Bill C-9 which implements it. We are really in uncharted territory. This is not the delegation of legislative power with which we are familiar. There is no constitutional amendment establishing a third order of government in Canada and, to date, the courts have not been willing to read this inherent right or a definition of self-government into the existing constitutional documents.

I have spent some time raising the background on this issue because I believe it serves as a counsel of caution as we deal with this bill and agreement. We have seen nothing like it before, and one could argue that its legislative base is questionable.

I would not be standing here today questioning this agreement in any way, shape or form if it had been accomplished through the delegation of authority provisions contained in previous agreements with our aboriginal peoples.

Honourable senators, my other preliminary point is the role of Parliament in this matter. I raised this issue in a similar form in relation to Bill C-49 during the last session. That bill gave certain aboriginal groups the right to use and occupy their land as they saw fit. By the way, I agreed with that bill, but I continue to wonder why these agreements are coming to us after all negotiations have been completed? There is really no role for Parliament. There is nothing we can effectively change without virtually destroying what could be a perfectly good agreement. If the government really wants Parliament to participate in this process, it should bring us the agreement in principle. At least then we could hope that our comments might be taken into consideration. At present, we really play no meaningful role.

I apologize to Senator Austin for not being here when he spoke. I was dealing with an issue reflected in the statement I made yesterday regarding the loss of my secretary and assistant.

When Senator Austin spoke on Bill C-9 before Christmas, he described our role as follows:

Our role is to consider whether this legislation actually reflects the final agreement, as negotiated by the three negotiating parties, and whether the bill deserves to be passed into law.

From my point of view as a senator representing the province in which this agreement is to take effect and, I believe, the view of most of my colleagues, the main concern is whether the final agreement makes sense and is within the law. I hope that the committee will conduct a thorough, exhaustive study of all parts of the agreement and the bill. However, what happens then? I come back to my original point. This agreement has been signed by the three parties and approved in the British Columbia legislature and by a referendum held by the Nisga'a people. Is our investigation window-dressing? Can we effect positive change in regard to this agreement?

Honourable senators, if we discover flaws that could be remedied through amendment, we should have the courage to put forward amendments and, in so doing, to represent the people of Canada and British Columbia. That would also be fair, in my opinion, to the Nisga'a people.

I urge the Liberal leadership in the Senate —

The Hon. the Speaker: Honourable Senator St. Germain, I regret to interrupt you, but your 15 minutes have expired.

Senator Lynch-Staunton: Does he not have 45 minutes?

The Hon. the Speaker: Senator St. Germain has only 15 minutes. The rule is clear that only the first speaker after the person who introduces the bill can speak for 45 minutes. I refer you to rule number 37(3). I have no alternative but to interrupt.

Senator St. Germain: I request leave to continue.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on a point of order, it was a courtesy from the opposition side to allow the Honourable Senator Gill to speak after the proponent of the bill, Senator Austin, spoke. We did not — and I thought it was understood — yield the official reply to the proponent's address, to be given by Senator St. Germain, nor the allotted 45 minutes.

Senator Lynch-Staunton: Hear, hear!

• (1500)

The Hon. the Speaker: Honourable senators, I refer to you rule 37(3) which states:

The sponsor of a bill and the first Senator speaking immediately thereafter...

It does not say whether the senator must be from the opposition or the governing party. It refers only to the first speaker. In this case, Senator Gill spoke yesterday, so he is the first senator to speak.

Senator Kinsella: Honourable senators, rule 1 refers to "customs" and "usages". It is certainly a custom and usage in this place that a proponent of a bill is responded to by the opposite side of the chamber. If a bill is introduced on this side, the tradition is that it is responded to by an honourable senator from the other side.

Hon. Dan. Hays (Deputy Leader of the Government): Honourable senators, I appreciate the courtesy of those on the other side who yielded the adjournment to Senator Gill, and I understand what His Honour is saying with regard to the rule. Perhaps this issue should have been dealt with at the time. We on this side are quite happy to give leave for Senator St. Germain to continue his speech beyond the 15 minutes allotted. When something like this happens in the future, I will try to be more vigilant and offer clarification at the time rather than after the fact, as we are doing now.

Hon. Eymard G. Corbin: I rise on the same point of order, honourable senators.

I believe that the interpretation of the meaning of that rule must be along the lines of what Senator Kinsella has just said. It has always been understood that the person who officially responds to the government's position must be an opposition member. This is a Parliament of parties. If we do not recognize that, the whole system collapses.

The Hon. the Speaker: Leave is granted, but I must remind honourable senators that the rules are written as they are written. I recommend that they be changed, but that is the rule.

Senator St. Germain: Honourable senators, I apologize for the confusion.

To continue, if we discover flaws that can be remedied through amendments, we should have the courage to put forward the amendments and, in so doing, represent the people of Canada, British Columbia, and the Nisga'a people.

I urge the Liberal membership in the Senate, which now enjoys a huge majority, to consider this agreement analytically and dispassionately in order that we may do what is right for the aboriginal people of Canada as well as all other Canadians, because as the former chief justice of the Supreme Court stated in *Delgamuukw v. British Columbia*, "We are all here to stay."

I raise these issues because I believe we should address them. Either we are a meaningful part of the process or we are not. Either Parliament has a legitimate role to play or it has not. We should not be subjected to dealing with matters as important as this one in a context of not being able to effect change if change is required.

With complete sincerity I say to the leadership of the government in the Senate: We, as senators, will do a good and credible job of reviewing legislation and agreements in relation to Canada's aboriginal people, but in order to do so our role must be meaningful.

Our review of this bill and the agreement illustrates the complexity of the aboriginal issues that face all of us in Canada. In fact, I believe it is as complex a public policy issue as there is in Canada today. As well as complex, it can be explosive. We have only to witness the reaction in our eastern provinces to the Supreme Court decision in *Marshall*. In Saskatchewan, the courts have awarded Lac La Ronge Indian bands entitlement to land roughly half the size of Banff National Park. This is based on a literal interpretation by one of our judges of a treaty signed in 1876.

Turning to the agreement itself, it is important that I lay out the constitutional argument as I see it. This is fundamental to the passage of this bill and the eventual implementation of the agreement. I appreciate the arguments advanced by Dean Peter Hogg of Osgoode Hall Law School and Professor Patrick Monahan; that is, that this treaty will have constitutional protection by virtue of section 35 of the Constitution Act, 1982, but that section 35 is not amended when a treaty is entered into.

It could be asked whether this is an attempt to amend the Constitution through the back door, because the agreement can virtually never be changed. It requires the agreement of all three parties, which is an unlikely event, in my opinion.

My real concern with the agreement flows from Chapter 11 of the agreement entitled "Nisga'a Government." Under the heading "Legislative Jurisdiction and Authority," there are a series of paragraphs which purport to give the Nisga'a government paramount legislative jurisdiction in a number of

areas. This legislative jurisdiction is not delegated; it is ceded or forfeited from the provincial and federal governments.

Honourable senators, under Canada's Constitution neither the federal Parliament and its government nor the provincial legislatures and their governments are expressly given the power to cede or vacate powers to another legislative body, and certainly not to a legislative body which is not recognized in the Canadian Constitution of 1982.

In addition, neither the federal nor the provincial legislatures have express authority to create a new legislative body to make laws that could prevail over laws made by either the provincial legislature or the federal Parliament. Federal and provincial bills must be presented to the Governor General and the Lieutenant-Governor, respectively, for Royal Assent. Allow me to restate that: Neither Parliament nor the provincial legislatures have the express authority to state that laws can come into effect without Royal Assent. The new Nisga'a law-making authority will not have to follow this process.

Honourable senators, I foresee that one day a person may be charged with breaking a Nisga'a law. That person will argue that the Nisga'a law or laws in question are invalid as they were not enacted by a competent legislature. This could bring the whole process into question. Perhaps it would be better to have this matter settled by referring the B.C. Liberal Party's case to the Supreme Court for an advisory opinion prior to proceeding.

Also dealing with jurisdictional issues, there are a number of legislative areas in which the Nisga'a government enjoys paramountcy over the federal and provincial laws and some areas where in cases of conflict "the federal or provincial laws of general application will prevail." I am not sure when a federal or provincial law will ever prevail because one area of Nisga'a paramountcy relates to "culture and language." I do not think it takes a great leap of logic to determine that virtually everything in a government structure designed to accommodate one group of people with a particular ancestry would be related to culture and language.

The other area of great concern in this arrangement is the situation of overlap. The question of overlapping claims between the Nisga'a and their neighbours, if not soon solved, could possibly lead to violent confrontations. A few years ago, it was government policy not to entertain the settlement of land claims or self-government where the title to the land was in dispute. This policy has now been changed. I am not certain why it was changed, but it is possible that it was to expedite this particular agreement and perhaps other agreements as well.

The agreement before us describes a tract of land and, under the agreement, it is to be owned in fee simple by the Nisga'a government. However, it is subject to competing claims of ownership by the Gitanyow people, whose hereditary chiefs appeared before the House of Commons committee to explain the dispute.

I was speaking on the telephone to members of both the Gitanyow and the Gitksan, who are neighbours to the Nisga'a, just before I came here today. The overlap situation still has not been resolved. This is not right. Competing land claims among Canada's aboriginal peoples should be settled before we complete this arrangement.

I am also concerned about the financial arrangements made among the parties to this agreement. I believe that most people in British Columbia would support this type of agreement if it brought closure to the issue. Unfortunately, under this agreement there may never be closure. Even though there is a commitment to pay taxes after 12 years and to bear some of the costs of government, the negotiators admit that the federal and provincial governments will be paying a significant portion of transfer costs to this government possibly in perpetuity.

• (1510)

Honourable senators, I believe this is one of the major things confusing British Columbians. Everyone is talking about the Nisga'a "final agreement." They are of the belief that this is the final agreement and that these people are looked after forever under this agreement, whereas it is not a final agreement. It is one step. People are asking me about finality, certainty and accountability in regard to the funding that is being handed out. I will deal with the concept of accountability later.

As well, the agreement instructs the Nisga'a government to establish accountability mechanisms, about which I was just speaking. I am concerned that unless an auditor general-type institution is established, there could be little or no accountability.

There is also no mention in the agreement of a requirement by either or both the federal or provincial governments to work with the Nisga'a people and their new government to establish a proper business plan for the huge resources and assets that are part of this agreement. It is virtually foolhardy to give by way of settlement hundreds of millions of dollars in cash, land, authority to harvest resources and the authority to govern oneself without the requirement to ensure that plans are in place for certain accountability.

If this is not done immediately, I predict the Nisga'a government could be in dire financial straits a few years from now, despite my faith in Chief Joe Gosnell and the people who are with him. I believe that their integrity, dedication and loyalty to their people is above reproach, but I fear the future. The future could be disastrous and this arrangement could basically condemn the Nisga'a people to a life of poverty.

Senator Austin, in his defence of this agreement, stated in the Senate that the agreement achieves the objective of certainty. I cannot fully agree with Senator Austin because there are competing land claims still to be dealt with. That in itself creates uncertainty. I know there are provisions in the agreement to deal with this, but it still creates uncertainty — uncertainty on the part of the Gitanyow and the Gitksan.

In the gallery today we have some very able people, such as Tom Molloy, Peter Baird and Jim Aldridge, who was the leader in the negotiations. These people have worked at this for some 20 years.

Honourable senators, it is with great humility that I stand here and question this agreement, but I do not speak on behalf of myself as an individual. I speak on behalf of British Columbians. This agreement provides uncertainty. There is no business plan we can see as to how the self-government is to be implemented. I believe a business plan is necessary. The constitutional foundations of this agreement could be in doubt theoretically.

A great number of people have been involved in this agreement, such as Alex Macdonald, NDP, former attorney general of the Province of British Columbia, and many others.

This is hardly the certainty that Canadians, British Columbians and the Nisga'a people need and deserve. Uncertainty also extends to the harvesting of natural resources under the agreement. I say "uncertainty" because I am sure the agreement will be subject to either legal or physical challenges by other fishers in the Nass Valley. The Nisga'a allocation of salmon will be 26 per cent of the total allowable catch. The Nisga'a will be able to sell their salmon, which amounts to a commercial fishery entitlement.

Senator Comeau, in his questions following Senator Austin's speech, indicated that this agreement obviates Parliament's role under the Fisheries Act. I do not know whether the honourable senator has sought a response to that question, but I am concerned that other commercial fishers will see this arrangement as unfair and challenge the agreement on those grounds alone. I question Senator Austin when he said in his speech that there is absolute certainty. I do so in a positive manner. It is serious business to create a new government, especially in an area of the country where non-native residents are looking at the creation of more than 50 similar governments — governments that are seemingly sovereign in respect of certain powers within their designated territory.

Honourable senators, I do not buy the argument that this agreement is not a template for the conclusion of other agreements. If it is not a template, then it will certainly be a guide. I cannot imagine another group in British Columbia coming forward and saying in relation to their settlement: "No, we do not want Nisga'a plus; rather, we want much less than you agreed to with the Nisga'a." Believe me, this will be a benchmark for all that follows.

My advice, honourable senators, is "let us get it right." Let us hold meaningful, in-depth hearings. In our hearings, I hope we will listen to every group intently. We must examine this legislation in a manner that allows the contents of the agreement to be fully reviewed in a non-confrontational manner. This has not yet happened. It is unfair to the Nisga'a people; it is unfair to the process. Everything has been polarized.

The senators sitting across from me — Senator Perrault and Senator Austin, both of whom are from British Columbia — know how badly this agreement has been dealt with. The process has been horrific and degrading to our aboriginal peoples. I believe we have an opportunity here, as senators, to do something positive.

Honourable senators, I have raised many issues today. I know they can be refuted. I raise them not in a confrontational way and not in a mean-spirited way, but in a manner that will hopefully create dialogue in a civil way.

Honourable senators, this agreement is historic in nature. It should be reviewed as effectively as possible without emotion, but with articulate clarity. I use the word “clarity” from this side of the house with great caution. That word is nerve-racking. The elected legislatures became so emotionally charged that the public was confused. I say to the Nisga’a people that I want them to have a deal. However, I do not want this deal to hinder future negotiations for other aboriginal groups. If this issue is not dealt with properly — and all of us from British Columbia know about the next government that is coming soon — roadblocks could be thrown up that would hinder the ability of future negotiations for other aboriginal groups.

It is particularly important that the Nisga’a have an agreement so that they can start working at rebuilding and building for the future. I do not think we should do it at the expense of the 50 other agreements that are possibly out there. We must come to an agreement in a manner in which everyone has confidence. That is the Senate’s responsibility. Together, let us all exercise sober second thought.

Some Hon. Senators: Hear, hear!

Hon. Jack Austin: Would the Honourable Senator St. Germain entertain a short question?

Senator St. Germain: Of course.

Senator Austin: Is it a fact that my honourable friend will be supporting the bill at second reading to allow the questions he has raised to be examined in committee?

Senator St. Germain: Definitely. I support the bill in principle. I have a responsibility to the Nisga’a people and to all the people of British Columbia and Canada to ensure that there is clarity on the issues I have brought forward and any other issues that senators may wish to bring forward.

On motion of Senator Tkachuk, debate adjourned.

[Translation]

• (1520)

FISHERIES

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Fisheries (power to hire staff

and travel) presented to the Senate on February 8, 2000.—(*Honourable Senator Comeau*).

Hon. Gerald J. Comeau: Honourable senators, I move that this report be adopted.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and report adopted.

[English]

STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE REQUESTING AUTHORITY TO ENGAGE SERVICES AND TRAVEL ADOPTED

The Senate proceeded to consideration of the third report of the Standing Senate Committee on Banking, Trade and Commerce (power to hire staff and to travel) presented in the Senate on December 16, 1999.—(*Honourable Senator Kolber*).

Hon. E. Leo Kolber moved the adoption of the report.

Motion agreed to and report adopted.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO REVIEW CANADIAN ENVIRONMENTAL PROTECTION ACT—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Andreychuk:

That the Standing Senate Committee on Energy, the Environment and Natural Resources begin immediately a review of the Canadian Environmental Protection Act as unanimously recommended in the Committee’s Seventh Report dated September 8, 1999, and tabled in the Senate the following day.—(*Honourable Senator Taylor*).

Hon. Nicholas W. Taylor: Honourable senators, this motion of the Chairman of the Standing Senate Committee on Energy, Environment and Natural Resources asks that the recommendations in the seventh report, which asked for a five-year review, be implemented immediately. My reason for rising to speak is that the motion is redundant, and I would ask that it be defeated.

On December 14, 1999, documents were circulated to all senators pertaining to a review of the Canadian Environmental Assessment Act. A letter from the Minister of the Environment, Mr. Anderson, indicated that he was pleased to advise honourable senators of the launch of the review of the Canadian Environment Assessment Act. He was also inviting the participation of senators in the review process. The operative words of the act require that the minister undertake a comprehensive review of its provisions and operations no later than five years after its coming into force. The letter indicated that he is starting that process now.

In other words, Motion No. 5 is redundant and there is no need to move it forward. I would ask honourable senators to strike the motion from the Order Paper in an effort to put things in order.

Hon. Mira Spivak: Honourable senators, the motion I put forth is not exactly superfluous in the way that Senator Taylor has indicated. The motion was to have the Standing Senate Committee on Energy, Environment and Natural Resources conduct the review. I believe that was the feeling of the committee members at the time. I hope that the review the minister is beginning now will encourage members of the committee to participate and to do their part.

From the time the CEPA bill was in the House of Commons to the time it reached the Senate committee, its content had been changed. That is a matter that I hope to see addressed. I should like to hear Senator Taylor's response in the sense that I hope the committee in the Senate will also begin to review that bill as quickly as possible.

Senator Taylor: Was that a question?

Senator Spivak: Yes.

Senator Taylor: If that is a question, honourable senators, the committee of which I am a member and of which the Honourable Senator Spivak is chair has a full agenda now on not only the legislation that will be proposed by the government as we proceed. The committee has also taken on the question of studying the safety of nuclear reactors, not only in Canada but around the world, to see if we can work toward international standards of safety.

Honourable senators, the committee has a full agenda. In view of the fact that the minister has said he is proceeding with the

review, I think it would be redundant and probably excessively demanding on some senators' time to review the act at the same time the department conducts its review. I suppose we can always have more people reviewing the situation, but there is perhaps more reviewing than we could do.

One of the things I have noticed since I have been in Parliament is that there is never any shortage of reviewing, but there is always a shortage of taking action. In this particular case, I would rather wait for a couple of years at least to see how this review goes before the Senate leaps in with both feet.

Senator Spivak: Honourable senators, I would remind Senator Taylor that legislation, including past legislation, is always our highest priority. This is an extremely important area because it involves toxins and the elimination or the generation of them.

I also point out that the government majority in the committee at the time proposed that the Senate begin this review.

I find it passing strange that we would not want to assist the minister, as wonderful as he may be — his department certainly has sterling references. We ought to assist the minister in looking at this question because a number of instances occurred after the bill left the House and came to the Senate committee that certainly fall within the purview of the Senate to examine. There are a number of issues, as I am sure other members are aware.

Honourable senators, I am not in agreement that this item be struck from the Order Paper. I wish merely to hear Senator Taylor make a more forthright supporting statement to the view that the Energy Committee should, if not this month perhaps shortly, look at what is important legislation of great impact to Canadians. I would think such an item is very high on their priority list because they want to ensure they are not drinking contaminated water. They do not receive the impact of many other toxins. If you will recall, this was a particularly important issue for people in the North.

The Hon. the Speaker *pro tempore*: Honourable senators, pursuant to the order adopted by the Senate yesterday, I must interrupt the proceedings to adjourn the Senate.

Debate suspended.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, February 9, 2000

	PAGE		PAGE
SENATORS' STATEMENTS		Senator Boudreau	581
Day of Recognition for Braille		Job Creation Programs—Possible Mismanagement of Funds— Request for Independent Audit. Senator Stratton	582
Senator Ferretti Barth	576	Senator Boudreau	582
Reform of the Senate		Agriculture and Agri-Food	
Senator Oliver	576	Farm Crisis in Prairie Provinces—Response of Government. Senator Gustafson	582
Business of the Senate		Senator Boudreau	582
Senator Hays	577	Farm Crisis in Prairie Provinces—Failure of Negotiations on Provision of Support. Senator Kinsella	583
Quebec		Senator Boudreau	583
Status of Court Cases on Rejected Ballots in 1995 Referendum. Senator Fraser	577	Senator Andreychuk	584
Day of Recognition for Braille		Delayed Answers to Oral Questions	
Senator Fairbairn	578	Senator Hays	584
Human Resources Development		Foreign Affairs	
Job Creation Programs—Possible Mismanagement of Funds. Senator Tkachuk	578	Cost Overruns in Capital Expenditures on Embassies Abroad. Question by Senator Stratton. Senator Hays (Delayed Answer)	584
<hr/>		Report of Canadian Council for International Co-operation— Recommendation to Establish Task Force—Plan to Establish Coherent Foreign Aid Policy—Composition of Budget for Foreign Aid—Provision of Foreign Aid Conditional on Human Rights Record—Government Policy. Questions by Senators Roche, Wilson and Andreychuk. Senator Hays (Delayed Answer)	585
ROUTINE PROCEEDINGS		Transport	
Library of Parliament		Air Canada—Increase in Air Fares. Question by Senator Oliver. Senator Hays (Delayed Answer)	586
Annual Report of Parliamentary Librarian Tabled. The Hon. the Speaker	578	Environment	
Census Records		Alberta—Announcement to Process Imported Hazardous Waste at Swan Hills Treatment Centre—Government Policy. Question by Senator Spivak. Senator Hays (Delayed Answer)	586
Letter from Quebec Federation of Genealogical Societies Tabled. Senator Milne	578	Health	
<hr/>		Possible Regulations Regarding Addition of Caffeine to Beverages. Question by Senator Spivak. Senator Hays (Delayed Answer)	587
QUESTION PERIOD		Finance	
Human Resources Development		Term Limits of Members of Canada Pension Plan Investment Board. Question by Senator Tkachuk. Senator Hays (Delayed Answer)	587
Job Creation Programs—Possible Mismanagement of Funds— Responsibility of Minister. Senator Angus	579	Transport	
Senator Boudreau	579	Restructuring of Airline Industry—Effect of Air Canada Monopoly. Question by Senator Di Nino. Senator Hays (Delayed Answer)	587
Job Creation Programs—Possible Mismanagement of Funds. Senator Angus	579		
Senator Boudreau	580		
Job Creation Programs—Possible Mismanagement of Funds— Request for Tabling of Reference Documents Used by Prime Minister in Response to Questions. Senator LeBreton ..	580		
Senator Boudreau	580		
Job Creation Programs—Possible Mismanagement of Funds. Senator Carney	581		
Senator Boudreau	581		
Job Creation Programs—Possible Mismanagement of Funds— Request for Tabling of Audited Files. Senator Tkachuk	581		
Senator Boudreau	581		
Job Creation Programs—Possible Mismanagement of Funds— Influence on Other Fiscal Policies. Senator Stratton	581		

ORDERS OF THE DAY**National Defence Act****DNA Identification Act****Criminal Code (Bill S-10)**

Third Reading, Senator Fraser	588
Senator Nolin	589

Nisga'a Final Agreement Bill (Bill C-9)

Second Reading—Debate Continued, Senator St. Germain	589
Senator Kinsella	592
Senator Hays	592
Senator Corbin	592
Senator Austin	595

Fisheries

Second Report of Committee adopted, Senator Comeau	595
--	-----

State of Domestic and International Financial System

Report of Banking, Trade and Commerce Committee Requesting Authority to Engage Services and Travel Adopted.	
Senator Kolber	595

Energy, the Environment and Natural Resources

Motion to Authorize Committee to Review Canadian Environmental Protection Act—Debate Suspended, Senator Taylor	595
Senator Spivak	596



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 26

OFFICIAL REPORT
(HANSARD)

Thursday, February 10, 2000

THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, February 10, 2000

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

FOREIGN AFFAIRS

RUSSIA—CONFLICT IN CHECHNYA

Hon. Francis William Mahovlich: Honourable senators, I wish to bring to your attention a visit I made recently to the Parliamentary Assembly of the Council of Europe. On the trip, Canada was represented by members of Parliament and senators. During our meetings, I did not have an opportunity to speak in the debate concerning whether the Russians should be absented from the council or whether they should be allowed to remain. Today, I should like to address the issue.

As recently as December, I spent 10 days in Russia. I found that there have been many changes since I was there in the early 1970s. There are positive signs of new democracy beginning to take shape. The treatment our delegates received was extremely accommodating and far above our expectations. Indeed, one had to wonder when travelling around Moscow whether there was a war going on in Chechnya and whether the people were being informed properly.

I agreed with the views expressed by members of the assembly during that week who stated that terrorism cannot be defeated by behaving like a terrorist. Canada condemns Russian military tactics in this tragic conflict. We condemn putting conscript soldiers at risk for their lives in a war that cannot be won and in which everyone loses. Canada, therefore, is calling for an immediate ceasefire and for dialogue to begin as soon as possible with the elected representatives of the Chechnyan people.

Canada calls on the Russian Federation to honour its commitments made at the Istanbul summit of the Organization for Security and Cooperation in Europe to allow the OSCE to undertake a role in finding a political settlement to the crisis in Chechnya through peaceful negotiations. We call on everyone involved to respect human rights. Specifically, Canada insists that there must be freedom of movement for civilians, for journalists and for humanitarian aid workers and supplies.

When the president of the assembly, Lord Russell Johnston, demands that the Council of Europe take action quickly, these

measures advocated by Canada are among those that must be considered in guiding whatever action be taken.

In the spirit of friendship with the Russian people and of democratic cooperation, we sincerely hope that the Russian government will be receptive to the overtures of this assembly.

• (1410)

The Hon. the Speaker *pro tempore*: Order, please.

Senator Mahovlich, your speaking time has expired. Are you seeking leave to continue?

Senator Lynch-Staunton: Overtime!

Senator St. Germain: Overtime — fourth period.

Senator Mahovlich: Yes, please.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Mahovlich: The quickest goal I ever scored in overtime was about 30 seconds.

For its part, Canada stands ready and willing to offer its good offices in whatever way might help to bring a swift end to these acts of terrorism, of gross injustice and inhumanity. Together, we must demand peace now!

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—EFFECT OF GRANTS

Hon. Ron Gitter: Honourable senators, my statement today relates to certain observations I wish to make with respect to the issue of the job creation programs in the Ministry of Human Resources Development arising from the position of the government expressed by the Leader of the Government in the Senate during the last two days.

At the outset, I wish to say that I have no intention of calling for the resignation of Minister Stewart, Minister Pettigrew or, for that matter, the Prime Minister.

Some Hon. Senators: Hear, hear!

Senator Ghitter: The next minister, whoever he or she may be, will be carrying on the very same type of thing, the very same programs that have been around for a number of years, albeit, I would hope, more efficiently. This program is flawed, abused and antiquated. It is the basis for a growing cynicism in the minds of Canadians as to a granting program that is structured more to providing political advantages rather than being based on reasonableness and sound fiscal common sense.

Yesterday in this chamber, the Leader of the Government, parroting the government's spin of deflection, listed programs that he, apparently proudly, supports, with applause from the background. Undoubtedly, I am sure, there are some programs in those grants that can be pointed to as successes. However, I stand in my place today and say that I do not support the HRDC job creation programs and call for the permanent termination of these programs.

An Hon. Senator: Hear, hear!

Senator Ghitter: I suggest that these programs have become so politicized that they now provide more opportunity for political opportunism. Liberal MPs look good delivering cheques to their ridings, while cheques delivered to the ridings of non-Liberal MPs are sent directly from the minister. I know because I have been there. I delivered such cheques when I was in elected politics.

Some Hon. Senators: Shame!

Senator Ghitter: It is time that we moved away from that practice. It is time that we stopped running around with cheques thinking that this practice is wonderful and that it will win votes. All we are doing is giving money back to the taxpayers.

Later, of course, after the cheque is delivered, the bag man of the political party comes around and says, "You know, you received this donation, and I notice from the records that in 1997 and 1998 the Liberal Party received some \$150,000 from companies that received federal job grants." In the Prime Minister's riding alone, where \$4.2 million in grants were made, some \$21,000 in donations were made to the Liberal Party.

Honourable senators, the whole system is flawed and invites abuse. The whole system, when exposed, elicits comments from a cynical population. They say, "As I have heard and read, what does one expect from politicians? Is that not the process?"

The Hon. the Speaker *pro tempore*: Order, please.

Senator Ghitter, your speaking time has expired. Are you seeking permission to continue?

Senator Ghitter: Yes.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Ghitter: With the greatest respect, while the Leader of the Government in the Senate, with background applause, endorses the continuation of this system of selected pork-barrelling as an appropriate measure to create jobs, and the Prime Minister proudly reads carefully selected items from Mr. Boudria's list of pork, I say: Scrap these programs. Grants to businesses meant to create jobs are artificial inducements that are rarely lasting.

Larger recipients like Vidéotron and Bombardier do not need grants to encourage them to hire people. If the program works and if the business venture or enterprise is sound, it will not need government grants.

If the government is serious about job creation, which is not, I might add, the issue it used to be in our society, then let me suggest some things the government can do if it wants to spend the billions of dollars that are currently going elsewhere: Cut taxes and get rid of the capital gains tax; replenish the starved treasuries of our universities, colleges and vocational schools so that they can educate, train and retrain our population; revise our student loan programs so that students who meet certain standards can have their loans forgiven and not be heavily indebted to the point of bankruptcy by the time they graduate; stop the brain drain and undertake programs to encourage companies to stay in Canada and invest.

Granted, such proven and successful activities by the Government of Canada would not keep its MPs as busy or possibly as appreciated, but Canadians would be much better off and maybe there would be a little less cynicism on Main Street.

Some Hon. Senators: Hear, hear!

ONTARIO

WIARTON—INFLUENCE OF WIARTON WILLIE ON COMMUNITY

Hon. Lorna Milne: Honourable senators, I heard the proud name of "Warton Willie" tossed across this floor with some glee yesterday. It appears that Mike Harris has taken a page out of Senate Hansard and is teeing off on Warton Willie too, as well as taking a swipe at the Senate on the way.

Let me tell you about Warton, Ontario. It is a beautiful small town with a population of 2,300 people at the foot of the Bruce Peninsula in Ontario, right on Georgian Bay and backed by the Niagara Escarpment. It has an unusual microclimate, unlike nearby communities that are temperate by the open waters of the Great Lakes, so Warton gets extremely cold in the winter. Because much of the local employment is seasonal, when the Chi-Cheemaun car ferry closes down for the season, so do many of the jobs. Because of that and the extremely cold temperatures, many people move out of town every winter to seek employment elsewhere.

What does the HRDC support of “Wiarton Willie,” that wonderful and young albino groundhog, mean to the town? In addition to a mid-winter lift of the spirits, for a grant of \$50,000 each year, employment is provided for two young people. The program began last year, and both graduates of the program have moved on to bigger and better jobs, one as an animator with Walt Disney Studios.

The Web site these young people have set up gets tens of thousands of hits each year. Millions of dollars are pumped into the local economy, with the resulting spinoff in jobs. This year, 10,000 people visited Wiarton on February 2 to see wee Willie predict six more weeks of Canadian weather.

The Wiarton Willie fashion show raised \$860 that was put towards the purchase of a digitizer for the Wiarton Hospital. Local retailers reported their weekend sales from February 2 to 6 as their best ever.

It seems that every single dollar of that HRDC grant is being well and efficiently used to help a town with a seasonal workforce maintain its population, and it has provided a bright future for at least two local young people. As seed money in Wiarton, the HRDC grant to Wiarton Willie has been a resounding success.

PROPRIETY OF E-MAIL ADVERTISEMENT

Hon. Raymond J. Perrault: Honourable senators, I will speak quickly and in a non-political fashion.

My intervention may be humorous, but it also relates to security on the Hill. I am in receipt of an e-mail message that has been circulated to members of Parliament and others promising a breach of confidentiality with respect to our personal backgrounds. May I read it to you? It is very short. It will take about two minutes.

Introducing the HOTTEST selling software of the year. The software they want banned. Why? Because these secrets were never intended to reach your eyes!!! Make calls anywhere in the world for free. This is a sophisticated SOFTWARE program DESIGNED that automatically links to thousands of Public Record databases. Now with Unclaimed Money Locator, find out if you are owed money in your state.

• (1420)

Here is what you can do with this new innovation: Obtain files that the government has on you; get anyone's name and address with just a licence plate number — find that girl you met in traffic; get anyone's driving record; trace anyone by social security number; get free Internet access; get anyone's address with just a name; get unlisted phone numbers; find long lost relatives, and past lovers who broke your heart; send anonymous e-mail completely untraceable; investigate anyone; use the

sources that private investigators use — all on the Internet — secretly; learn how to get information on an ex-spouse that will help you win in court — dig up old skeletons; do criminal searches and background checks; find out about your daughter's boyfriend or her husband; find out if you are being investigated; learn all about your mysterious neighbours — find out what they have to hide; be astonished by what you will learn about people you work with; verify whether someone really graduated from college. To find out, just insert the floppy disk and go.

There are some humorous aspects to this statement, but it is deadly serious if it is possible to access information of this kind, and it is totally improper. I am turning this over to the RCMP.

THE HONOURABLE MARCEL PRUD'HOMME

FELICITATIONS ON THIRTY-SIXTH ANNIVERSARY IN PARLIAMENT

Hon. John Buchanan: Honourable senators, I have been informed by two former long-term members of Parliament — one of whom, Bob Muir, was a member of the Senate — that one of our colleagues is today, February 10, 2000, celebrating his thirty-sixth year as a parliamentarian.

Senator Marcel Prud'homme was first elected to the House of Commons on February 10, 1964, three years before I was elected to the Nova Scotia legislature. He was re-elected eight times and served continuously in the House of Commons for 29 years. As well, he has served for seven years here in the Senate.

Congratulations, Marcel.

Hon. Senators: Hear, hear!

HUMAN RESOURCES DEVELOPMENT

STUDENT LOANS PROGRAM— PROPOSAL TO RAISE PREMIUMS PAID TO BANKS

Hon. Erminie J. Cohen: Honourable senators, I wish to express a concern about the government's proposal to raise the premiums paid to banks for the national Student Loans Program.

It has been reported that the proposed premium increase could increase the federal government's cost by \$100 million. I believe this measure is only treating a symptom of a much larger problem. I cannot understand why the government is quick to solve the concerns of our wealthy banks but has done so little to address the inability of students to pay back their loans.

Since 1993, the government has slashed funds to education by \$6 billion. Despite last year's small budget increase, universities and colleges continue to struggle to meet the needs of their students, trying to do more with less. To make up the revenue shortfall, tuition rates have skyrocketed and students are forced to borrow even more. Canadian students, after graduating from a four-year degree, are among the most indebted in the world, owing an average of \$25,000.

Clearly, honourable senators, this is not a good beginning for our young people as they enter their working lives. That inevitable indebtedness dissuades students, especially those from low-income backgrounds, from enrolling.

I am sure, honourable senators, that you would agree that \$100 million would be much better spent expanding bursary programs and increasing transfer payments to provinces. This would, in turn, increase accessibility, ensure that students do not amass such high debts in the first place, and start them off on the right foot as they begin their careers.

In the last month alone, the government has made several questionable decisions regarding taxpayers' money. Travelling across the country with the Progressive Conservative Task Force on Poverty has heightened my awareness and concern, and I cannot stress enough the need for policy decisions that will break cycles that contribute to poverty. There is still time for the government to re-think this proposal and put the money where it rightfully belongs, into educating and preparing our youth for the challenges that lie ahead in this century.

DR. MARTIN LUTHER KING, JR.

Hon. Donald H. Oliver: Honourable senators, January 17, 2000, was a national holiday in the United States. It was on this day that the American people paid tribute to the life and work of Dr. Martin Luther King, Jr. It is not a national holiday in this country, but there are many Canadians who, on Martin Luther King Day, take a moment to honour the man, his principles, and his struggle to achieve racial equality within the American civil rights movement. I am one such Canadian.

In 1956, I travelled from Nova Scotia to Toronto to hear Dr. Martin Luther King preach. It was an awe-inspiring experience. His words both challenged and motivated me. They reinforced my determination to realize my dreams in spite of the obstacles that stood in my way.

As the leader of the civil rights movement in the United States, the extent of Dr. King's work is a testament to his dedication to the realization of true equality and fairness for all people, regardless of their race. In the 1950s and 1960s, a typical year of protests and demonstrations would have him travelling throughout the United States where he would deliver over 200 speeches; an exhausting feat but one from which Martin Luther King Jr. never appeared to falter.

During this period, Dr. King was assaulted, stabbed and stoned while promoting the cause of civil rights to the American public. In 1963, he was jailed for 11 days in Birmingham, Alabama for demonstrating in defiance of a court order against segregated department store facilities and unfair hiring. In 1965, he was jailed again, this time in Selma, Alabama, for protesting against discriminatory practices in voter registration. Throughout all of this, Dr. King still managed to publish several books and became the youngest recipient of the Noble Peace Prize which he won in 1964.

Today, almost 32 years after his assassination on April 4, 1968, Dr. King's legacy remains strong. The struggle for equality and fairness continues, as racism in the United States and here in

Canada still exists, although not in the same way that it did when Dr. King was alive. We have yet to arrive at the place in our hearts where he wanted us to be; the place where all people are judged by their character and not by the colour of their skin.

The United Nations has proclaimed 2000 the International Year for Culture and Peace. Throughout this year, we are to focus on respect for cultural diversity and promote tolerance, solidarity, cooperation, dialogue and reconciliation; all of which are principles and solutions that Dr. King espoused for the betterment of society over three decades ago.

In conclusion, honourable senators, this year, in honour of Dr. King, I encourage all honourable senators to join me in promoting these principles here in the Senate and among the people we represent. Martin Luther King, Jr. once said, "True peace is not merely the absence of tensions. It is the presence of justice." Our role in attaining such true peace mandates that we use our positions as senators to bring about true justice.

[Translation]

ROUTINE PROCEEDINGS

SITUATION OF OFFICIAL LANGUAGES IN ONTARIO

NOTICE OF INQUIRY

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Thursday, February 17, 2000, I will call the attention of the Senate to current issues involving official languages in Ontario.

[English]

• (1430)

QUESTION PERIOD

HUMAN RESOURCES DEVELOPMENT

MILLENNIUM SCHOLARSHIP FOUNDATION— DISBURSEMENT OF SCHOLARSHIPS

Hon. Ethel Cochrane: Honourable senators, the Canadian Federation of Students has been advising post-secondary students to refuse to accept scholarships from the millennium fund because taking the scholarships may actually cost the students money. The scholarships are treated as taxable income, but many provinces are deducting the scholarship amount from their own financial-aid packages. My understanding — and the understanding of post-secondary students across the country — is that this fund was intended to provide some financial relief to needy students, not serve as a new source of funds for provincial governments.

I ask the Leader of the Government: Now that some money is finally being released from the millennium scholarship fund, how much of that money has been given directly to students and how much has gone to provincial governments?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question. It is an important issue. The purpose of any focused transfer of funds such as those of the Millennium Scholarship Foundation is to help students, not to assist provincial governments with their fiscal situation.

I do not have the specific information with respect to the situation in all of the provinces, but I will certainly get the available information and supply it to the honourable senator.

Senator Cochrane: I thank the Leader of the Government for that answer.

Would the minister also try to find out how many students thus far have refused to accept these scholarships?

Senator Boudreau: Yes, I will be happy to seek that information. I will try to get a complete package of information and make it available to the honourable senator and to anyone else who might be interested. I could do that very likely next week.

JOB CREATION PROGRAMS—
POSSIBLE MISMANAGEMENT OF FUNDS

Hon. W. David Angus: Honourable senators, Canadians are becoming increasingly dismayed by the statements that the minister responsible for Human Resources Development Canada made after she received the now shocking and revealing internal audit. Minister Stewart blamed her department. She said there was mismanagement at the bureaucratic level, and today we read in the *National Post* that this Liberal government is now blaming Mr. Jean-Jacques Noreau, an honourable and dedicated civil servant, who left the department two years before this audit was even initiated.

The Liberals have blamed bureaucrats who currently work at Human Resources Development Canada. They have blamed bureaucrats who have toiled there in the past. The Liberals have blamed everyone except those responsible for this mess, namely, themselves.

The Liberals are the ones, honourable senators, who forced those bureaucrats to succumb to political pressure. They were the ones who ensured that there was more than a 1,000 per cent increase in approval of these boondoggling grants just before the 1997 election.

Senator Cools: Not so!

Senator Tkachuk: Shame!

Senator Angus: Will the Leader of the Government in the Senate please confirm or deny — and I ask this simple

question — the claim made by a senior government source in the *National Post* of this morning that:

MPs were really unhappy about losing profile and...walking-around money in their communities...

After the government cut other programs, the Transitional Jobs Fund was an explicit answer to caucus concerns as “it gave them a direct handle on job creation money.” It is strange that now bureaucrats are being blamed for succumbing to political pressures.

Can you confirm or deny that, Mr. Minister?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question. I thank him for the three or four questions he raised, but I will respond to the one he asked in his summary.

An Hon. Senator: Give one answer, anyway.

Senator Boudreau: I assume I will probably have an opportunity to respond again in this Question Period on this subject.

There is a suggestion that the Transitional Jobs Fund was used for political purposes.

Some Hon. Senators: No!

Senator Boudreau: That is the suggestion.

Some Hon. Senators: Shame!

Senator Angus: Confirm or deny?

An Hon. Senator: Who suggested that?

Senator Boudreau: That is the suggestion to which I wish to respond.

An Hon. Senator: Who did that?

Senator Boudreau: Not with innuendo —

An Hon. Senator: Never!

Senator Boudreau: — not with hints, but with facts. The facts are —

An Hon. Senator: Not before the election, never!

Senator Boudreau: The facts show, honourable senators —

An Hon. Senator: Ask the groundhog.

Senator Boudreau: I am anxious to share these facts with you. Of the 1,083 projects approved during the life of the Transitional Jobs Fund, over half, specifically, 568, went to opposition-held ridings —

An Hon. Senator: Wonderful.

Senator Boudreau: — versus 515 to Liberal ridings. Opposition ridings —

An Hon. Senator: What is your point?

Senator Boudreau: — received \$147 million in transitional job funding versus \$138 million in Liberal ridings. The opposition ridings received more transitional grants and more funds. If this was designed as a political vehicle, then someone got it all wrong.

An Hon. Senator: Where is the groundhog? That is pretty poor.

Senator Angus: Honourable senators, the Leader of the Government has not answered my specific question. I do not know what you think, but I am personally deeply troubled by the failure of the Honourable Leader of the Government in the Senate to provide serious and relevant answers to several simple and straightforward questions.

Senator Robichaud: You should have waited to hear the answer.

Senator Angus: These are questions which my colleagues and I have posed to the leader this week on the subject of the HRDC grants in good faith.

Canadians wish to know the answers to those questions, honourable senators. The government is being evasive and is clearly embarrassed by this scandalous situation. This is an evolving scandal akin to the Pacific scandal, to the Beauharnois scandal, to the Sky Shops scandal, et j'en passe, monsieur le ministre.

My question to the Leader of the Government in the Senate is: Would the Leader of the Government give us an answer and provide legitimate answers to the questions? People want to know. Will the Leader of the Government in the Senate —

Senator Spivak: Resign!

Senator Angus: — ask the government to appoint, without delay, a full commission of inquiry into this affair so that Canadians can know the details of what in fact happened to their hard earned money?

An Hon. Senator: Yes or no.

Senator Robichaud: Answer very slowly so that they understand.

An Hon. Senator: Can you see your shadow?

Senator Boudreau: I take from his comments that the honourable senator believes that the Transitional Jobs Fund was used for political purposes.

Senator Meighen: He wants answers.

An Hon. Senator: Hard of hearing.

Senator Boudreau: I think that was the essence of his comments, but I believe that it was not used for political purposes. The reason I believe that it was not is that most of the grants and most of the money went into opposition ridings. I can only recite those facts.

Senator Nolin: An inquiry.

Hon. Senators: We want more! We want more!

Senator Boudreau: I might say that the funds that went to opposition ridings were much welcomed by the opposition MPs who represent those ridings. The funds were even more welcomed, honourable senators, by the individual Canadians who benefited from those programs.

Senator Fairbairn: Exactly.

Senator Boudreau: I should like to thank Senator Ghitter because I think he raised the level of the debate by his statement to the Senate earlier. I thank him for that because he raised it from the point of frantic rhetoric to a point of principle.

Senator Angus: Answer the question.

Senator Kelleher: Yes or no.

Senator Boudreau: The honourable senator said, "Get rid of these grants and give the money back to us in tax cuts." That is what he said.

Senator St. Germain: Hear, hear!

Senator Boudreau: Furthermore, he received applause. I congratulate him for putting the issue clearly.

An Hon. Senator: Do you agree?

Senator Boudreau: That is exactly the issue. He is not alone. Let me quote today's *National Post*, because the *National Post* is with him on this. Diane Francis said:

Going forward, all the grant schemes in the federal government should be shut down and distributed to taxpayers in the form of permanent cuts.

Some Hon. Senators: Hear, hear!

Senator Ghitter: Who said that?

• (1440)

Senator Boudreau: Diane Francis said that. She goes on to state, "Anything less won't be enough." Do away with the grants.

Senator Angus: Let us have some answers.

Senator Boudreau: Shall we do away with the aboriginal programs, do away with the social development programs, do away with learning and literacy, do away with human resource partnerships, do away with all of those important programs?

Senator Lynch-Staunton: Do away with the groundhog!

Senator Boudreau: I have a question.

Senator Lynch-Staunton: Down with the groundhog.

An Hon. Senator: Will there be an inquiry?

Senator Boudreau: Would the Honourable Senator Buchanan from Nova Scotia agree with that? The other honourable senators from Nova Scotia, from New Brunswick, do they agree with that? I can tell you that I certainly do not agree with doing away with all those important programs.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: Honourable senators, I wonder if the Leader of the Government could answer Senator Angus' question?

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT
OF FUNDS—DISPENSATION OF GRANTS

Hon. Mira Spivak: Honourable senators, in view of the response of the Honourable Leader of the Government about grants going to opposition parties, I feel compelled to rise and ask him about the member for Winnipeg Centre, Pat Martin. Believe me, I know Winnipeg Centre, and I am sure all the other MPs and senators from Manitoba know that area and its needs. Pat Martin said he had not received any grants from the Transitional Jobs Fund, despite the fact that his area includes a school and that its surrounding neighbourhood is described as the poorest area in the country.

The Prime Minister's response was that he had indeed received \$100 million over so many years. Eventually it turned out that the number mentioned included the salaries of the civil servants. I know, given the minister's desire for the truth, that he would want to make the record clear on that issue. I also want to see the record set straight because this is a constituency and an area that is close to the hearts of all those who come from Manitoba.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, if Senator Ghitter and Diane Francis have their way, no constituency will get any grant money.

Senator Angus: Answer the question. You are not answering any questions. This is a disgrace.

Senator Boudreau: I will give one more small quotation and then I promise never to mention Diane Francis again.

Senator Spivak: I want an answer to the question.

Senator Boudreau: The quotation is, "...we must keep our money away from them..." I think she is referring to the government but I am not sure. "...we must keep our money away from them except for essential services." — but essential to whom? I do not think Lord Black needs a literacy program; I do not think he needs a youth employment program, but there are plenty of Canadians who do need them and we support them.

Some Hon. Senators: Hear, hear!

Senator Spivak: I did not get an answer to my question. What is the answer to the question I raised?

Senator Angus: There is no answer. There have been 19 questions and there are no answers.

Senator Roberge: He does not remember the question.

Senator Boudreau: The honourable senator asked me to look for information on a specific riding. I have yet to refer to information on a specific riding. Yesterday, there were complaints that the government spokesmen were using information from specific ridings. I have particularly avoided doing that because I knew the sentiment expressed by the opposition senators.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, the Leader of the Government said earlier that more opposition members in the House of Commons benefited from these grants than did government members, riding by riding. Would he table the details of those grants?

Senator Spivak: Exactly.

Senator Nolin: Yes.

Senator Lynch-Staunton: It is very important to know, riding by riding, exactly how these grants were allocated.

Senator Nolin: All the funds!

Some Hon. Senators: Come clean!

Senator Lynch-Staunton: The Leader of the Government suggests that more grants were allocated to opposition ridings than to government ridings. Could he table those results so that we can all examine them?

Senator Nolin: All the funds, not just one.

Senator Boudreau: Honourable senators, I will table information with respect to any statements I have made here. Any totals that I have mentioned, the honourable senators will have those totals.

Senator Angus: We got an answer; a red letter day!

JOB CREATION PROGRAMS—EFFECT OF GRANTS

Hon. Ron Ghitter: Honourable senators, I have a supplementary question. Since the honourable leader has brought me to this hallowed status with Diane Francis — where I have never been before, I might say, and it will be very brief, I can assure you — is it then the position of the government that more jobs are created by band-aid, transitional programs that come and go than by the permanency which is afforded by tax cuts, by removal of capital gains tax, by all the economic matters which I have referenced? Those actions can have a far-reaching effect on our society, on business and on our community by way of investment and the creation of long-term jobs.

I take it from what the leader has said that he takes the premise, and the government takes the premise, that we are better off creating jobs by throwing cheques around for interim, transient programs, rather than permanent economic policies that will be of lasting benefit to Canadians? Is that his position?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I hold the position — and the honourable senator has asked for my position — that government has a role to play by intervening with public money in certain circumstances. These are programs in which I think government has a role to play.

Senator Lynch-Staunton: To buy votes!

Senator Boudreau: For example, I believe that the government has a role in social development and in learning and literacy programs and, yes, in job creation as well.

Senator Lynch-Staunton: The groundhog money.

Senator Boudreau: I can cite some of the wonderful programs of which I am aware in my home province. These programs are to the credit of other people in this chamber. They have created stable, long-term jobs in the province of Nova Scotia. Michelin Tire is one example.

Senator Ghitter: Cape Breton is a perfect example.

Senator St. Germain: Devco!

JOB CREATION PROGRAMS— POSSIBLE MISMANAGEMENT
OF FUNDS—CONDITIONS OF RECEIVING GRANTS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate and continues along the same lines. My apologies to the residents of Wiarton, but I still think it is a misuse of funds in the sense that we want to create long-term jobs for the Canadian people. You do not do that through boondoggling such as we have heard about.

Did this government ever, either directly or indirectly, suggest that firms would be given HRDC grants on the condition that they donate money to the Liberal Party of Canada?

Senator Ghitter: No, never. It is implied.

Senator Lynch-Staunton: Out of order!

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I have no knowledge of any such conversations or conditions.

Senator Nolin: Shawinigan!

Senator Lynch-Staunton: Never in Shawinigan.

Senator Nolin: Saint-Maurice!

Senator Stratton: Has any bagman of the party approached any of these firms either before or after the award of these grants?

Senator Boudreau: I take it the honourable senator is referring to the current government because earlier we had a confession from a member of a former government that such practices might have occurred. I have no knowledge of any such practices.

Senator Spivak: Name him.

Senator LeBreton: Which government? It was your government.

Senator Nolin: It was Shawinigan.

JOB CREATION PROGRAMS— POSSIBLE MISMANAGEMENT
OF FUNDS—RCMP INVESTIGATION

Hon. Terry Stratton: On Tuesday of this week, two Progressive Conservative members informed the RCMP that 70 firms had received nearly \$27 million in HRDC grants between 1996 and 1997. They had collectively donated nearly \$162,000 to the Liberal Party of Canada.

An Hon. Senator: That is more than the banks.

Senator Stratton: Will the Leader of the Government's colleague in the office of the Solicitor General promise not to prejudice or influence this inquiry by the RCMP?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators —

Senator Nolin: Say, yes.

Senator Boudreau: Honourable senators, I can give that undertaking very easily and with confidence.

The initial rhetoric with respect to this serious issue has taken a new direction. I do not think it is a helpful direction. There are serious issues. Senator Ghitter has put the issue on the floor.

Senator Lynch-Staunton: What about Diane Francis? What did she say?

Senator Boudreau: It is a serious issue of substance and there are differing views on both sides of the Senate floor. I hold one view. Senator Ghitter, for example, holds the opposite view. I can only say with respect to that point of view, if that is Senator Ghitter's view and the view of his party, that he should urge his leader to make such a statement because I have heard no such statement from him to date.

• (1450)

Senator Stratton: I believe the Leader of the Government in the Senate when he says, "I have no knowledge." I would hope that neither does any other minister and that they have not misled either this place or the other place, because then we would certainly want resignations.

Senator Boudreau: Obviously, any information that I have comes to me from another department, but any information I have given is true and complete to the best of my knowledge and belief.

HEALTH

APPOINTMENTS TO GOVERNING COUNCIL OF THE POPULATION HEALTH INITIATIVE

Hon. Erminie J. Cohen: Honourable senators, last week the Minister of Health announced the appointment of the governing council of the new Canadian Population Health Initiative. The names were impressive. However, after close inspection of the news release, I was disappointed. When I studied the makeup of the council, I discovered two members from British Columbia, two from Saskatchewan, one from Manitoba, three from Ontario, one from Quebec, one from P.E.I. and one from Newfoundland. I was surprised to find that there was no representation from either Nova Scotia or New Brunswick, especially when New Brunswick leads the country with an extremely effective extramural hospital system — in fact, the only complete one in Canada, and the University of Dalhousie is a recognized medical centre. Could the Leader of the Government in the Senate please explain why New Brunswick, Nova Scotia and Alberta were excluded?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I must apologize to the honourable senator. I missed the first part of her question where she identified the program. Was it the CHIR?

Senator Cohen: It was the Canadian Population Health Initiative.

Senator Boudreau: I am not familiar with that program. I am more familiar with the Canadian Health Innovation Research program, which is quite a substantial government program. I was under the impression, which I will certainly attempt to verify, that the program had representation in its decision-making body from every province. If such is not the case in the program to which the honourable senator refers, I would certainly be prepared to make inquiries and respond.

Senator Cohen: Thank you. A press release was sent to our offices earlier this week. I am glad to hear that you have given me that assurance. I should like you to assure me that the makeup of this committee is not political.

An Hon. Senator: Oh, never!

Senator Boudreau: I am confident that the makeup of the committee will contain Canadians who are committed to public

service and health issues. I do not know whether any of them will have political affiliations, but I am certain all will act in the best interests of Canadians.

Senator Cohen: I was not referring to political affiliations. I just noticed that the provinces that do not have a large Liberal representation were not included. That was my first reaction when I read the list.

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF FUNDS—ALLOCATION OF GRANTS

Hon. Edward M. Lawson: Honourable senators, I have a question for the Leader of the Government in the Senate. As I understand, the jobs program was established to create jobs and encourage employers to hire employees they would not ordinarily hire without the benefit of these grants — people who had suffered as a result of the cutbacks in Employment Insurance and were unemployed longer but could be put back to work. The question is: Did the program help? The answer is “yes”.

However, there is another group of workers. I acknowledge the government leader applauding Senator Ghitter for raising the level of this debate. I want to lower the level to the lowest possible level for the people the program was supposed to reach — the workers.

Among those who were employed with corporations that had the urge to downsize and lay off tens of thousands of workers, the usual group got it. Those who were actually doing the work were laid off first. However, many executives and senior management suddenly were laid off, and it was a new experience for them to be unemployed. Many of them had a difficult time adjusting to finding a new job and going back to work.

The government, very quietly, funded a number of companies across the country — one in my backyard in Burnaby, B.C., by the name of Transitions — to counsel and prepare people to go back into the workforce. They found after a period of time that they had a huge success rate in preparing managers and other workers who had experienced this traumatic shock of being unemployed to take a lesser-paying job or any job. They had considerable success. In the midst of all this, while hundreds of millions of dollars were being poured out, the government decided to cut back on these companies that played a major part in putting people back to work. My question is: Why would they do that? It was a very important component of putting people back to work. Why would the government cut that program off? Why would they cut it down?

I have not heard this complaint from the companies. They would not dare complain because they figure they would be cut off at the pocket. However, I have heard workers say, “It helped me go back to work. Why did they cut it back? Why were my fellow workers not given the same opportunity for counselling to help them get back to work?”

I should like the Leader of the Government to ask the minister the following question. I realize that she is busy and is somewhat occupied with other things, but he could ask the minister and/or one of her senior bureaucrats. I would be pleased to have one of them call me in the interests of urgency and speed and tell me why they cannot reinstate that program and continue that funding. The funding was working very well. It contributed to the success of the program and helped a lot of workers get back to full-time employment.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the Honourable Senator Lawson for that question. I give him my undertaking to make that inquiry. Hopefully next week that contact can be made and the information transmitted.

The honourable senator's comments reflect, again, the difference of opinion that exists when we get down to the fundamental issue. Some people want all of the programs scrapped and the money to be used for tax relief; others recognize that these programs provide a valuable service to some Canadians.

That is not to say that there are not serious issues to be addressed. When my honourable friends talk about the recent audit, there was missing or incomplete documentation in those files as a result of insufficient monitoring, and there were financial management concerns. It does no one any good to indicate or even attempt to pretend that these concerns are not serious or that they do not deserve immediate follow-up. However, that is a different kettle of fish from an agenda to eliminate these programs because one believes that another approach is more effective.

I will do the follow-up and have the information for the honourable senator next week.

SOLICITOR GENERAL

PROGRAM TO TIGHTEN SECURITY WITH REGARD TO TERRORIST ACTIVITIES—REQUEST FOR DETAILS

Hon. Consiglio Di Nino: Honourable senators, there is a report that cabinet has approved a controversial plan to crack down on Canadian groups accused of raising money for terrorism, et cetera. Being a member of cabinet, could the minister share some information on this plan with us today?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I believe my honourable friend knows that any cabinet discussion about any program is confidential. Until decisions and announcements are made by the minister responsible, I would not be able to share any details.

Senator Di Nino: If I read this correctly, the plan has been approved and I am told that it is now public. If it is not, I agree with you.

As a supplementary question, let me give the government leader my thoughts and concerns about this issue. I think we

would all, on both sides of the chamber, applaud the principle of this plan. However, it is a road fraught with many potholes, and we must be careful. I would ask for the honourable leader's commitment, at an appropriate time, to bring to us the details of this program. I am concerned, for instance, about a foreign state suggesting that a particular group may be a terrorist group when it is, in effect, one with a different political view. Let us not mention names, although I will do so at some future time. I would ask that the Leader of the Government in the Senate bring to us whatever information he can share at an early opportunity so we can look at the program and either applaud it or criticize it.

Senator Boudreau: Honourable senators, I appreciate the thoughtful nature of the honourable senator's remarks, and I respect his concern about the issues he raises.

• (1500)

I am not certain at the moment whether or not that program exists publicly, but I will undertake to check. If it does, I will supply immediately to the honourable senator all the information that he is requesting, and hopefully his concerns will be addressed.

DELAYED ANSWER TO ORAL QUESTION

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I have a response to a question raised in the Senate on December 16, 1999, by the Honourable Senator Andreychuk, regarding the request for a response to the committee report on aboriginal veterans.

ABORIGINAL PEOPLES

REQUEST FOR RESPONSE TO COMMITTEE REPORT ON ABORIGINAL VETERANS

(Response to question raised by Hon. A. Raynell Andreychuk on December 16, 1999)

In response to the 1995 Report of the Standing Senate Committee on Aboriginal Peoples, the Government of Canada looked into the complaints of Aboriginal veterans from across the country who had testified before the Committee. The Government carried out a thorough examination and complete review of documentation pertaining to its *Veterans' Land Act* files for those veterans. This review indicated that the veterans received the benefits to which they were entitled under the legislation.

The results of the Government's review were sent to the Clerk of the Standing Senate Committee. Furthermore, officials from the Department of Indian Affairs and Northern Development and Veterans Affairs appeared on March 17, 1998, at the Senate Committee on Aboriginal Peoples to answer questions about the Government's response.

The Government of Canada has continued to recognize the important contribution which Aboriginal veterans made to their country, and continues to discuss with Aboriginal veterans issues that concern them. Moreover, since the Senate Standing Committee Report, several projects have been launched to provide special recognition for Aboriginal veterans.

The most recent — the Millennium Project — recognizes that the year 2000 provides a unique opportunity to provide special honours to Aboriginal veterans in recognition for their contributions to Canada.

ORDERS OF THE DAY

NISGA'A FINAL AGREEMENT BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Fairbairn, P.C., for the second reading of Bill C-9, to give effect to the Nisga'a Final Agreement.

Hon. Jeremiah S. Grafstein: Honourable senators, rarely can we in the Senate say that the legislation we are considering will have a profound impact on Canada and is of historic consequence; or, that the legislation marks a historic evolution, a turning point in the transformation of the very nature of our sovereign state. Such is the case of Bill C-9, legislation to implement the Nisga'a Final Agreement.

The treatment of aboriginals — or better stated, the mistreatment of aboriginals — predates Confederation and started from the first so-called discovery and, later on, occupation by European states of lands that came to be known as Canada, which in itself originates from an aboriginal word, "Kanata", meaning "meeting place".

Who in this chamber and who in Canada can deny that one of the most miserable and distressing chapters in the history of North America and South America has been our treatment of aboriginals. The federal government, proudly aided and abetted by the established churches of the day, legislated the Indian Act over 100 years ago, which incorporated European-style notions of racial discrimination by establishing bloodlines as a point of definition in the Indian Act. This proved to be both racist and exclusionary. The Father of Confederation, Sir John A. Macdonald, hoped that the so-called "Indians", the so-called "Red Man", would assimilate by these policies using isolation and then assimilation.

The churches, their missionary zeal and their schools were part of the problem. They have yet to fully atone for their collective efforts to take aboriginal children away from their parents to

residential schools for the noble purpose of education, only to abuse them and seek to cleanse them of their aboriginal heritage.

The thinking of the Department of Indian Affairs was no different, backed by the power and prestige of the federal government and its provincial counterparts, all instigated by avaricious settlers and entrepreneurs.

For decades, the treatment of aboriginals went from bad to worse. Even the rights of citizenship were denied aboriginals. In the 1960s, the federal government, through the Hawthorn-Tremblay commission, defined the problem essentially in economic terms and recommended economic empowerment for the aboriginals, as quickly as possible, in order to provide equality of treatment to all aboriginals as citizens.

In 1969, the government white paper presented during the tenure of the current Prime Minister, who was then minister of Indian and northern affairs, opened a new chapter calling for both equal treatment and affirmative action. The active search for a modern solution was on. It became an active part of the public discourse.

In 1982, the Charter of Rights propelled the public debate even further. Sections 25 and 35 recognized undefined aboriginal rights and aboriginal treaties. This was only just; it was only right.

Too few Canadians recall that Canada was saved from absorption by the United States in the War of 1812. It was the great Indian leader Tecumseh and his confederacy, siding with British and Canadian soldiers, who turned back the American invasion of Upper Canada. It was along the Thames River, not far from my birthplace in London, Ontario, where Tecumseh died in battle against the American invaders. Tecumseh rode north, from American lands to Canadian lands, to join the fight against the Americans here because he was promised fair treatment for aboriginal treaty claims and aspirations better than those offered or practised by the Americans.

Canada owes a deep social and historic debt to aboriginals; hence, the desire for economic and political justice. The establishment of the new Territory of Nunavut last year was a step in that direction.

Honourable senators, this proposed legislation presents us with a more complex challenge: How to restore fairness, equity and justice to those of aboriginal descent, with small pockets of population stretched across the country, on principles acceptable to the Canadian idea.

After years of negotiation, as Senator Austin so eloquently illustrated in his thorough and comprehensive speech in support on second reading, a settlement was reached between the Government of British Columbia and the Nisga'a of the Nass Valley, settling land claims and recognizing a form of self-government very different and distinctive from that ever seen in Canada before. This small band of less than 6,000 for years have long followed their own form of communal self-government.

No one can deny the need to renovate the aboriginal situation. There are now 80 negotiating tables across the country involving claims of over 10 per cent of Canada's land mass. The minister in the other place stated that this settlement was not a precedent. However, yesterday, in a most moving address by Senator Gill, he eloquently, passionately and persuasively argued that other aboriginals will make good use of this settlement.

Let us turn to the Nisga'a model of governance. On a careful reading, we discovered some elements which are unique and different. They are so unique and different that I believe they have not been fully understood or digested by most Canadians. I traced the turn in the dialectic on aboriginal solutions since the Hawthorn-Tremblay report.

The egalitarian ideas of the 1969 white paper and the Charter of 1982 began to change dramatically during the debates on the failed Meech Lake Accord and Charlottetown Agreement. The Supreme Court of Canada entered the public debate with its decisions in the hope that these would elucidate and accelerate solutions such as the *Calder* decision.

With the publication of the Royal Commission on Aboriginal Peoples in 1995, the public debate abruptly and dramatically took another turn, shifting ground from support of the 1969 white paper's theory of individual rights and economic affirmative action, to promoting collective rights, special status and delicate theories of self-determination and a constitutionally approved third level of governance.

In the Nisga'a Treaty, we find that the Nisga'a, in the course of negotiations, substantially reduced the extent of their land claims and other claims in exchange for recognition of a new and different form of legally empowering governance.

In the Nisga'a Treaty, we find a distinction between the Nisga'a, called a Nisga'a citizen, and a non-Nisga'a resident on Nisga'a lands. Under the Nisga'a constitution, only Nisga'a citizens can enjoy full voting rights and full economic entitlement to the fruits of any settlement. Only the Nisga'a can define Nisga'a citizenship. There has been a delegation of powers here beyond the reach of future federal governments. Indeed, the 1982 Charter, in sections 25 and 35, provides for the recognition of aboriginal rights and treaties, and asserts that nothing shall derogate from those rights and treaties that were not defined at the time. The question is not only whether the federal government has the power to establish a third form of government, beyond the reach of future federal governments and Parliament, and without constitutional amendment. Under sections 25 and 35 these questions were and are being hotly debated. They are divisive constitutional questions. Even if these questions pass judicial scrutiny, is that the vision we want for a united Canada with the globe shrinking in the 21st century? We have yet to learn the bitter lessons of the 20th century respecting the clash between "ethnicity" on the one hand and open citizenship on the other.

Senator Gill stated persuasively and passionately the other day that all future aboriginal governments will not be "ethnic".

He said that "...they will be a reflection of what we are entitled to be."

• (1510)

He went on with a very moving passage. He said:

This involves sharing the partnership. The more we are what we are, the more openness there will be between us. A distinct identity does not require the cultures to be separated; in fact, the opposite should be the case. A culture that is comfortable with itself can be open with others. It attracts interest. Its ethnicity is a part of the positive reality.

Who can quarrel with Senator Gill's statement? Yet, when one looks carefully at the words of the Nisga'a settlement, at the legislation, and beyond, as I have, and reads the Nisga'a constitution, one sees that the question of Nisga'a citizenship is left solely to the Nisga'a, beyond the reach of Charter principles. My concern would be that the definition of "citizenship" will not be "ethnic" as my colleague, Senator Gill, suggests. My concern is that, through the noble purpose of bringing delayed justice to the aboriginal situation in Canada, which screams for renovation, we may have unwittingly created "ethnic" feudal-like special status enclaves with two classes of citizenship that conflict with the higher notion of equal and inclusive Canadian citizenship.

Our work here, honourable senators, on this most important legislation, is challenging, delicate and difficult. It is not clear to me, after comprehensively reviewing the treaty, the Nisga'a constitution, this legislation, and the five volumes of the Royal Commission report on aboriginal peoples whether my concerns on this legislation are questions of principle or questions of clarification. I intend to abstain on second reading and carefully review the evidence presented before the Committee on Aboriginal Peoples which I know will be both exhaustive and thorough on these and my other concerns.

Hon. Ron Gitter: Honourable senators, would the honourable senator permit a question?

Senator Grafstein: Yes, I would.

Senator Gitter: If the concerns of the honourable senator become a reality, what does he believe the ramifications of that will be?

Senator Grafstein: Who can project into the future? This is one prophylactic to my own concerns. As this matter reaches beyond the boundaries of British Columbia, provincial assent will be required to 40 or so other negotiating tables. That is a prophylactic, but is it a salutary one? It is very difficult, as the minister in the other place has suggested, to deny that this is a substantive precedent. If it is a substantive precedent, we could find ourselves in a position of having enclaves — and I use that word delicately — ethnic, racially-based enclaves across the country with different treatment of people who live within that particular enclave.

Having read the documents as thoroughly as I could, I wish to commend the negotiators who laboured arduously to try to bring together two different notions of Canadianism: the notion of equal treatment and that of ethnic identification. In many places in the legislation you will see the reach of the Charter and the desire for Charter notions to pertain.

Let us look at the question very carefully. On Nisga'a land there will be a Nisga'a citizen — and remember that it is defined as a Nisga'a citizen. I always thought, honourable senators, that citizenship was a unique aspect of life in Canada, that it was open to every Canadian regardless of birth, race, or tradition. That idea was imported here.

I was not part of the negotiations. There were 20 years of negotiations; so it is facile for me to enter into this debate after a month of study. However, having read this, I must say that I have always thought that the highest architectonic of Canada is citizenship, that everything else flows from that, and that everyone here should be entitled to become a citizen. In the Nisga'a treaty, people are excluded. You cannot become a Nisga'a citizen, I do not believe — and that is why I want to await the evidence — unless you are born into the tribe. This sets up a different notion of citizenship; a conflicting notion of citizenship.

If Senator Gill's statement is correct, that this will open up a larger vision of Canadian citizenship, I am open to that. However, I doubt that. I hope that my doubts can be allayed during the evidence given at the committee. I hope I am wrong. I hope my fears are misplaced. I will listen to the evidence and I shall read it in an open-minded fashion, but I have deep doubts about this. That is why I am abstaining here, despite my desire to renovate the horrible situation that aboriginals across the country face. I cannot bring myself to do that.

That is not a complete answer, but I hope that the evidence before the committee will help us all.

Senator Ghitter: From Senator Grafstein's reading of the agreement and the legislation, is it possible that a non-Nisga'a defined individual has no protection as normally afforded to Canadians under our Charter?

Senator Grafstein: No, that is not my position. Again, I wish to commend the negotiators and all the parties on this.

Senator Austin stated it quite well. As I understand it, when the rights of a non-Nisga'a resident on Nisga'a lands will be affected, he will be able to address those concerns. He will be able to be heard in the Nisga'a modality. He will have a right to be heard, but he will not have a right to vote. Perhaps when it comes to education there will be rights to vote. On questions, there will unquestionably be a distinct right to be heard, but they will not have a right to decide, to vote, or to access the decision-making process other than to be heard.

That is my reading. As I have said, I hope that in the evidence before the committee these concerns can be allayed. There is a

substantive and distinctive difference between the right to be heard and the right to vote as a citizen.

The Hon. the Speaker: Honourable senators, I must inform you that the time period for Senator Grafstein's speech and questions thereon has expired.

Is leave requested to extend?

Hon. Senators: Yes.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Ghitter: I have one further question on this matter. Suppose that an individual is denied employment because he or she is not a member of the Nisga'a nation. In that circumstance, another Canadian could go to a human rights tribunal, at whatever level. Is it your belief that such an opportunity does not exist for a non-Nisga'a individual living on that land mass?

• (1520)

Senator Grafstein: Again, I am not clear about that. My preliminary reading is that there might be some rights under the Charter and under like legislation, because the Charter is not completely exempted here. There is, however, a Catch-22 here. Under the Charter, aboriginal rights are included but are not defined. However, they are defined subsequently and, therefore, are afforded equality of treatment under the Charter. The Charter has a Catch-22 to it. The question is: Is citizenship in the Nisga'a tribe open to all the Charter principles?

That is one question, and I do not know the answer to it.

Hon. Gerry St. Germain: Honourable senators, in speaking of Nisga'a citizenship, Senator Grafstein stated that he believed, from his reading and understanding, that citizenship flowed from ancestry and from being part of that ethnic group. My understanding, from the explanations that I have received, is that Nisga'a have the option of granting citizenship to anyone they so choose. Would that change your position at all?

Senator Grafstein: I should like to know what the qualifications are. Under our principles, there are objective qualifications. They are not discretionary. You come to Canada, you are a landed immigrant, and you can become, on objective principles, a citizen. In the United Kingdom, a minister of the Crown can deny a person citizenship based on arbitrary conditions. That is not the case in Canada. After you reach a certain standard, citizenship is based on open principles. I do not know if that is the case under the Nisga'a constitution. On my reading, it is discretionary. That is one of the issues of evidence that I will be interested in listening to at committee.

Hon. Mira Spivak: Honourable senators, I have two questions for Senator Grafstein.

First, is it the honourable senator's view, with his concerns about the citizenship question, that the Nisga'a will have dual citizenship? Second, given those concerns, if the honourable senator wished to amend this treaty, could he give us some indication of how that process would then evolve? I presume the treaty would have to go back to all of the negotiating parties. Could the honourable senator elaborate on that?

Senator Grafstein: Honourable senators, I will deal with the last question first, because it is the fundamental question. I have given serious thought to it. Senator St. Germain raised the problem that we in the Senate have. The problem is that it is up or down. It is almost impossible to amend. I say that because, to be fair to the Nisga'a, they have given up substantive land and other claims in the negotiations. It puts Parliament, as Senator St. Germain pointed out, in an invidious position of deciding to vote up or down.

I do not know if there is an answer to this. I have given mighty thought to it. If this is a problem, and if my concerns are shared by senators on all sides, how do we change this in a way that will be fair to the negotiators who gave up positions at tables to reach a result and not hinder the other salutary aspects of this negotiation? It is a conundrum, and I do not have a fast answer to it.

I am sorry, I have forgotten your earlier question.

Senator Spivak: The question was whether it is your opinion that the Nisga'a will have dual citizenship.

Senator Grafstein: We just had this discussion the other day about Mr. Citizen Black and dual citizenship and what the rights of dual citizenship are. I do not disagree with dual citizenship —

Hon. John Lynch-Staunton (Leader of the Opposition): Within the same country?

Senator Grafstein: Let me finish. I do not disagree with dual citizenship as it applies to Canadians who hold citizenship in other countries, but it gives me great difficulty, Senator Lynch-Staunton, to bifurcate citizenship in Canada.

Were there other answers to this? I think there were, but I was not involved in the negotiations. We were not involved, nor should we have been involved. However, there might have been other models. That is for the committee to deliberate, as Senator Corbin points out.

Senator Spivak: Is this a template, then, for other things that might happen in Canada, or do you think this is a case of its own kind, *sui generis*?

Senator Grafstein: How can it not be a template? The minister said it is not a precedent. How can it not be a precedent?

Senator Gill was very fair the other day when he said that other aboriginal groups will make good use of this — and why should they not?

Senator Lynch-Staunton: They do not want less, you are right.

Senator Grafstein: Our problem is: Is it a good precedent? It will be a precedent, despite what the minister in the other place says. That is the danger. I hope it is a false danger, but, nevertheless, it is a substantive danger.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, there are two areas that I should like to explore with Senator Grafstein based upon his comments.

First, continuing with our reflection on the notion of citizenship, I think it is necessary to underscore the importance of that question. It is important to the principle that underlies the bill that is before us, but, also, we have to mine that a little bit to see what it really means.

We must be mindful that the first Citizenship Act in Canada was passed only in 1945. There was a second one in the 1960s. We have been promised a new one by successive governments over the past few decades. We must also be mindful, in terms of the relationship of citizenship to rights, of the fact that, under our Charter of Rights and Freedoms, there are only three rights that are predicated on Canadian citizenship: the right to leave and return to Canada; the right to vote; and the minority education right.

Given the youthfulness of the whole idea under our parliamentary democracy of Canadian citizenship, and given the fact that most of our rights are applied to everyone in Canada, does the honourable senator think that perhaps this term "citizen" is an equivocal term, so that, when it is being used in this bill, it is not the same concept that is used even in the Citizenship Act, and is quite different from the notion of citizen that is in the Charter of Rights and Freedoms?

Senator Grafstein: I think that was the premise of Senator Gill's comments, namely, that there are different notions of lower-case citizenship. The word "citizenship" was used, however, in a legally and essentially constitutionally oriented framework. I think it was carefully chosen. I do not think it was lightly chosen. Because it was carefully chosen and because it appears at first sight, *prima facie*, to conflict with my notion of citizenship, and perhaps yours, it opens this question up, and maybe there should be a wider definition of citizenship. I have always thought that the essence of citizenship, in its legal and in its natural law state, was to be open to everyone — open citizenship based on open criteria.

Let me conclude, if I might. My maiden speech in this place dealt with the question of payment to Japanese internees. I chose that as my topic because I came across an invidious case of citizenship. There was a Canadian of Japanese descent in the Fraser Valley who had fought in the First World War and came back bemedalled; he then returned to the Fraser Valley to find that his land had been taken from him. He did not have the vote; he only got the vote because he became a soldier. The whole question of citizenship and voting became a real live topic for me.

• (1530)

I cannot think of anything more important that we can deal with as legislators than defining carefully and proudly what citizenship entails. This legislation opens this question — perhaps prematurely, but it opens the question. Therefore, we must deal with the question.

Senator Kinsella: That leads to my second area of concern. I listened carefully and took note that in the address of the honourable senator, he delicately used terminology like “ethnic group” or “ethnicity”. He seemed, to my listening at least, to express some discomfort with a racial kind of definition. The Japanese redress speaks directly to the issue. That was racial discrimination. Therefore, a linkage exists in our history; perhaps in that part of our history of which we are not overly proud.

As the honourable senator gave his address this afternoon, was he struggling to avoid terms such as “race” that we ought not use? There has been, in part of the debate as I have read it, an attempt by some to define collective undertakings in racial terms. Given that race has no scientific base to it and given the history of the evil that has been perpetrated, would the honourable senator clarify what he meant and how we must expunge the notion of race from this consideration?

Senator Grafstein: The Honourable Senator Kinsella raises an interesting historic point, and I did spend some time looking at this.

The Indian Act imported a racial blood definition. This did not come from the aboriginal people. This came from the white man defining what the so-called “red man” was. This was a European form of definition and exclusion. Even the term “red man” was reprehensible to my mind. The definition in the Indian Act is reprehensible. Now we have this unbelievable paradox that the reprehensible notion of blood in the definition of the Indian Act, which was European and foreign to the aboriginals, may somehow continue on in this treaty.

I say that delicately because I do not know. I have no idea what it takes to be a member of the Nisga’a band. I do not know the answer to those questions. The honourable senator is right. I have been as sensitive as I could in my effort to move away from terms that I hope will be false hot buttons. This is a delicate situation and we are dealing with delicate issues. I hope honourable senators will address this issue as delicately, as fairly and as openly as possible.

Hon. David Tkachuk: Honourable senators, I will begin my remarks on Bill C-9 by showing you my file on the Nisga’a Final Agreement. I am sure many of you have the same documents, letters and information that I have received.

I wish to congratulate Senators Austin, St. Germain, Grafstein and Gill for their speeches on Bill C-9. I want to make it clear

that I am here to support the bill in principle and for the bill to go to committee.

First, I should like to quote my own words from Hansard of March 31, 1998. As many honourable senators know, I have taken a particular interest in the issue of self-government. In my speech on self-government I stated that Indian people are not the white man’s burden. At that time, I said:

Let us find a way to give First Nations an opportunity to look after themselves. By denying them that opportunity, we are on a freight train to disaster. Let us begin a communication of equal partners...

Honourable senators, the Nisga’a bill gives us an opportunity to deliberate the facts of this bill and not the myths — and there are many myths. Many of the same myths were brought to my attention when I introduced Bill S-10, which then became Bill S-12 and then Bill S-14. I introduced a bill on native self-government that I thought would provide a template for self-government. Contained in it were certain principles in which I strongly believe.

The reserves should govern themselves. Given the uniqueness of their culture and Canada’s history in relation to them, certain federal or provincial powers are better left to the reserves so that they adopt a democratic form of government, pay taxes and become part of the Canadian community with the same opportunities as anyone else in this country.

Honourable senators, I have some concerns about the process and I have expressed them here. I have concerns about how the Nisga’a and other Indian tribes have agreed to govern themselves. I am not a big believer in collectivism. I believe it is folly. As long as I do not have to pay for it, people should be able to do what they want. The Hutterites do well under a collectivist form of government, but they do not ask me for any money either. I have concerns about that, but the country is large enough that I do not need to live there.

Honourable senators, we are doing something here. The Indian reserve is held in trust by the Crown. For the first time, the Indians, and the Nisga’a in particular, will actually own the land in fee simple. It is similar to a big private farm in British Columbia that is owned by an Indian band. It is no longer the Crown’s land. In fact, they will operate like a little government and have their own Crown land — land that people can buy. I am not sure that they will realize the same economic opportunities for resale if they do not become part of the community. We must understand that point. I am not too concerned about that because these people are the same as everyone else. They will want their assets to go up, but they will not go up if everyone is moving out. The land will not be worth anything when they buy that piece of property and receive title.

Honourable senators, I am trying to make this as simple as I can and speak using simple words. This is not that complicated an issue, but it is an issue with many problems.

Honourable senators, the federal government should have provided a template, which is why we have these ongoing debates, especially the debate in British Columbia. The government should have provided a model, template or philosophy as to why it was doing this. We must remember that in Charlottetown the Canadian people clearly rejected self-government. They clearly rejected self-government on reserves right across the country. In British Columbia, 68 per cent of the people voted against the Charlottetown accord. That was a democratic expression of will and the government has some responsibility to listen to that.

• (1540)

We are a democratic country. The government cannot grant inherent self-government while saying that Parliament has nothing to do with it. We did not pass any resolution here. I do not blame the Nisga'a for that; I blame parliamentarians and the government itself. We should have brought the issue before Parliament and discussed certain principles before the issues became so complicated.

We could have had a full debate in the other place and then given some guidance to the negotiators, who instead had to operate in a vacuum. Now the Liberal government steps up and says that they believe in the inherent right to self-government, but they never told anyone. They went against the vote of the Charlottetown accord.

Yesterday, Senator St. Germain made a salient point. Reserves and residential schools were, at some time in the past, well intentioned. I would add that we also have treaties today, all over Canada except in British Columbia. Those treaties have not solved the problems that beset many Indian communities in Canada. This is not some panacea. We have gone through the great experiment of treaty-making, and it has not worked all that well. We, as parliamentarians, did not have an opportunity to discuss among ourselves and with the Indian people how the future could look. Had we done so, that future may have been a little different than what we have already created.

We tried reserves; that did not work. We tried residential schools; that did not work. We tried treaties; that did not work. Now we have an agreement which some say will solve the problem. I do not think so, but I do believe the Indian people should have self-government. I do believe they can solve their own problems better than we can solve problems on their behalf. I do believe they need the independence to do that.

The absence of treaties in British Columbia did not mean that Indian people there had fewer benefits than other Indian people across Canada. There are reserves in British Columbia where Indians live today. The only thing different is that we did not pay them \$5 per head and \$25 for the chief as we did under many of the prairie treaties. They settled their particular treaties many years ago for a lot less money.

There are reserves in British Columbia. The Nisga'a live on a reserve. The land negotiated in this bill is in addition to the reserve land they already held. The Nisga'a were not wandering around with no place to call their own.

In fact, the added lands are under question by two other competing Indian tribes who lay claim to that same land. That is another promise broken by the federal government, which said this would never happen. It has happened and the competition is still there. They are still laying claim to the same land which we are giving to the Nisga'a under this bill.

There is little that the British Columbia Indian does not have as compared with the rest of Canada. In fact, there is no evidence to suggest that they were any worse off for it.

Now we have a new treaty which is unique because negotiated in it is a government structure. Remember, we have done this before with the Yukon and the Sechelt. We have passed legislation but it was very different from what we are experiencing today.

If the treaty falls under section 35 — and I believe it does; I have not been dissuaded — so shall the government of the Nisga'a nation. We are setting up a third order of government, whether we want to admit it or not. I do not mind that we have a third order of government as long as we know that we have it and we understand what we are getting into and how we will deal with it. I do not like it when something is set up by stealth. I would rather have it open. It should be out in the open. We should be told. If it is a third order of government, then we should know that. Then we can deal with it and discuss it.

Once this bill is passed there is nothing we can do about it. It is either up or down. That puts us in a very awkward position. That is not the way we should do business. Three signatures are needed to change the government agreement once this bill is passed — those of the federal government, the provincial government and the Nisga'a. I do not think it can be changed. We do not have a good record in Canada in changing the Constitution without great effort.

Some scholars disagree. Mr. Tom Molloy is a friend of mine from Saskatoon; he negotiated this agreement. He always tells me that all of the respected constitutional lawyers say that this thing does not require a constitutional amendment and that we are doing the right thing. There have been times when a bunch of constitutional lawyers have agreed, only to have the matter go before the Supreme Court and find out they were all wrong. That has happened. When a bunch of constitutional lawyers tell me that they are right, I am not sure if they are telling me that because they want me to agree with them or because there is a lot of money in this down the line. This matter could be fought out in the courts for the next 20 years, law firm to law firm, court to court, and both sides financed out of the federal treasury. That would be just great!

If this bill passes, as Senator Grafstein has said, there will be a whole bunch of these governments. Each will be different. We are being told by the federal government that this agreement is not to be a template, but I agree with the senator opposite that it will be. This will be the least of the agreements and they will all be different. What a mess we are creating for ourselves. I am looking forward to the committee process to prove otherwise.

There will be Charter issues of the kind that concerned many members opposite when we discussed Bills S-12 and S-14, including women's rights, and Bill C-31 on enforcement and Charter applicability. I am not too concerned about those issues, because I was not concerned about them under Bill S-12 and Bill S-14. I put my mind to rest on them. I do not think there is a problem in this particular bill on any of those issues.

Those of us from Alberta, Saskatchewan and Manitoba are Western Canadian senators; we represent a region. We have an even greater responsibility to ensure that the concerns expressed by the great people of British Columbia are not treated with contempt. All the other senators have a responsibility to ensure that British Columbians feel they have a voice in Ottawa; that just because it is far away they do not get dismissed quickly. We must give this issue the same respect it would receive if it were happening in Ontario or Quebec or, frankly, downtown Vancouver. It is out there in the Nass Valley. Do we even know where it is?

The official opposition party in British Columbia is the Liberal Party. I met with the Attorney General's critic, who is also a federal Liberal and a smart young man. His party does not support this bill and they have given their reasons for it. The federal Reform Party in British Columbia, holding the majority of B.C. ridings, does not support this bill. Only the provincial NDP supports this bill.

• (1550)

The Hon. the Speaker: Honourable Senator Tkachuk, I regret to interrupt you but your 15-minute period has elapsed.

Senator Tkachuk: May I have leave, then, to continue?

The Hon. the Speaker: Is leave granted for the honourable senator to continue?

Hon. Senators: Agreed.

Senator Tkachuk: Honourable senators, only the provincial NDP supports this bill in British Columbia. The NDP is so disgraced there that in the last by-election it only gained some 250 votes. That is the only political party in British Columbia that supports this bill.

In the Southam newspaper — actually, both newspapers in Vancouver are owned by Southam — there is a letter from Scott Barker-Leeson, a Nisga'a who has many of the same concerns about this process. He talks about the secrecy of the process and how enthusiastic he was at the beginning by the promise of what would happen here. He says in that article that:

Sadly, over time, our enthusiasm turned to cynicism, our optimism to scepticism.

During treaty meetings a lot of questions were answered with vague statements. Our leaders had apparently adopted a "wait-and-see" attitude in regard to how monies would be

spent — who would be in charge of what programs that were to be created, etc.

He then talks a bit about one particular meeting. He continues:

I have spoken to many Nisga'a back home and here in Vancouver. Many people are going with the flow of the band leaders, yet they don't fully understand the repercussions that this deal will have on us in the long run.

I wonder how they'll feel when they're still poor, still don't have a job and still have to watch the same people in power — except now those precious few in power will have hundreds of millions of dollars to "play" with.

Will they be smiling then?

I also have a letter from the Office of the Leader of the Official Opposition in British Columbia, which states in part:

It is the hope of every British Columbian that the honourable members of the Senate will ensure that these concerns —

— and he sent them to me so I am sure he sent them to all of you. The letter continues:

— these concerns are addressed and rectified. In few instances has the Senate's responsibility to provide sober, second thought on legislation drafted by the House of Commons been more critical to the future of our province and country. I urge you to carry out a complete and detailed examination of this treaty, with full consultation, prior to its final passage.

I ask the government members: Will we all be able to say, when this process is over, that we have done that and have kept our promise to the people of British Columbia?

Senator St. Germain: Honourable senators, I have a comment for the Honourable Senator Tkachuk.

As a British Columbian, I would not want to leave the impression that only 250 people are in favour of the agreement. The NDP government — or, to be more precise, Glen Clark — did a horrific job in the way it handled this issue and that has caused a lot of problems. Mr. Clark said that this was his agreement. These people have been negotiating for 122 years, yet here is someone who just came on the scene two or three years before and, all of a sudden, it is "his" agreement. He stated that his government would rise or fall on this particular agreement. He staked his political future on it.

There are many people who are in agreement with the principle of dealing with this issue. I am sure that I misunderstood the honourable senator. However, leaving it at 250 on the vote that took place in the by-election is an indication of the real unpopularity of the NDP government in British Columbia. I do not think we should directly reflect that on the Nisga'a agreement. I say this as a concerned British Columbian. We are looking for certainty, but not at any price.

I leave that with you, Senator Tkachuk.

Senator Tkachuk: Honourable senators, I am not sure if that was a question. However, that is not the impression I wanted to leave. I was trying to point out that the Government of British Columbia, at this moment — and, things change; politics change rapidly — is a discredited government. They are the ones who negotiated this agreement. I do not want to leave the honourable senator with the impression that I do not agree with self-government, because I do. I have tried to state my many concerns. The Standing Senate Committee on Aboriginal Peoples is a good committee. In fact, it will be a much better committee when I am on it — and I was asked to be on it yesterday.

We will give this a full, clear, thorough examination. As the Nisga'a nation said itself, "We do not deal in myths." I may have started a few, but I hope not. We do not deal in myths but, rather, in reality and in fact. I hope we will keep the debate along the line of what we have been having here, which we will continue to do in the future. We do not fan any silly flames. If most of our problems are dealt with, then this bill will have relatively smooth passage here.

[Translation]

Hon. Gérald-A. Beaudoin: Honourable senators, I should like to say a few words on Bill C-9, to give effect to the Nisga'a Final Agreement.

I must say right off that I willingly recognize the collective rights accorded the aboriginal peoples, who were in America long before us, long before the arrival of the Europeans and the great discoverers: John Cabot, Jacques Cartier, Samuel de Champlain and others.

The Constitution of 1867 did not say enough about the aboriginal peoples. Fortunately, the Constitution Act of 1982 improved things with section 35, an excellent section. The Supreme Court gave very significant decisions on native peoples and will, I have no doubt, give many more. We must, therefore, continue to recognize the rights of the native peoples and to respect them.

I must also say I am prepared to send Bill C-9 to committee; however, my intent is to draw attention to the legal issue, which is very complex.

I am delighted that this law clearly states that the Constitution of Canada and the Canadian Charter of Rights and Freedoms take precedence in any event. This is essential, in my opinion, because this law will create a precedent, which may come up in other provinces.

I shall also say that this is a law and not a constitutional amendment.

Had we wanted a constitutional amendment, of course, the amending formula would have had to be complied with, which is obviously not the case. There are three components to this law, a rarity: the Nisga'a, British Columbia, and the federal Parliament are all involved. This is not legislation that can be amended easily and often, unlike the Income Tax Act, for example.

• (1600)

Under subsection 91(24) of the Constitution of 1867, the federal Parliament was given exclusive jurisdiction over aboriginal peoples and the lands reserved for them. Legally, then, we have the power to act. I attach great importance to the fact that the agreement does not do away with application of the Criminal Code. In my opinion, this decision is justified. The legal aspect will have to be looked at in greater detail in committee.

The Nisga'a are given many powers. There is no problem with delegation of powers. Some are concurrent, sometimes more federal, sometimes more provincial, and I have no problem with that.

There are others that give predominance to the aboriginal people. That may be surprising. It is, however, a matter of interpretation. If there is a conflict, and we have to be realistic about this, there will be conflicts, because this is a very difficult matter, the Supreme Court will be able to settle the debate if necessary. We are very well aware that the Constitution is what is supreme in Canada, and the Supreme Court is the guardian of the Constitution.

For all these reasons, I would like to hear some experts address this matter in parliamentary committee, and I feel Senator Grafstein has raised some very important points. I hope the debate will go into this in more detail.

As for dual citizenship, it seems clear to me that, in the event of conflict, Canadian citizenship will take precedence. It is clearly obvious that the Citizenship Act of a federation such as ours takes absolute precedence. The existence of another citizenship is a possibility, but in case of conflict, Canadian citizenship is foremost.

In conclusion, I agree that Bill C-9 should be referred to a committee. We need to resolve a fundamental and important question. I very much hope that a more extensive and more detailed discussion than the one we have had today will take place in committee. There are obvious legal problems. This is my first reaction to this bill. Let us refer it to a committee, with the idea that a number of points of constitutional law relating to delegations must be gone into further.

This agreement is a precedent, not just for one province, but for the country as a whole as well. It may be a very good thing, and this is why I am supporting the bill on second reading. I hope that the issue of dual citizenship will be looked at in greater depth, along with the predominance of the Nisga'a in certain areas of concurrent power, voting and taxation. We want this to be a simple piece of legislation, and it must be well drafted.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, the mover of the bill is not here. Are there any other speakers on the other side? I do not believe we have any on this side. I would move second reading of Bill C-9.

The Hon. the Speaker: If no other honourable senators wish to speak, I will proceed with the motion.

It is moved by the Honourable Senator Hays, seconded by the Honourable Senator Fairbairn, P.C., that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Senator Grafstein: Honourable senators, I wish to note my abstention.

Senator Hays: On division.

The Hon. the Speaker: Carried, with one abstention.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Hays, bill referred to the Standing Senate Committee on Aboriginal Peoples.

[Translation]

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(*Honourable Senator Lavoie-Roux*).

Hon. Shirley Maheu: Honourable senators, I wish to contribute to the debate on Bill S-2, which was introduced in this house by Senator Carstairs.

[English]

My colleagues have already expressed their feelings on this sensitive issue and have shown their support for this bill. For

most of them, compassion was the main concern when they spoke in favour of this legislation. I agree with them, and I also believe that measures should be put in place to ease the pain of dying. A health care provider should not be guilty of a criminal offence if he or she gives medication to a person in dosages that might shorten their life if, and only if, the purpose of this action was to alleviate the pain, not to cause death. I consider this good palliative care, and I think that this method should be encouraged.

I also believe, in accordance with the *Nancy B* decision, that health care providers have the obligation to respect the right of their patient to refuse or withdraw consent to life-sustaining medical treatment. It would then be normal that they not face any criminal offence if they act according to their patients' wishes.

• (1610)

[Translation]

That being said, I believe that we must be cautious when drafting legislation on such a sensitive issue. This is why I read Bill S-2 very carefully. I think I have a clear understanding of the spirit of this text and of the major principles stated in it. As I mentioned earlier, I support these principles.

However, it seems obvious to me that this bill is incomplete. It is also clear in my mind that several of its provisions could pose problems of interpretation and implementation.

Let me first draw your attention to clause 2 of the bill. This provision, which states as a principle that the health care provider cannot be found guilty of an offence when treating a person for pain control, may be difficult to implement in practice.

Indeed, it may seem very easy, from a theoretical and legal point of view to determine the intention of the health care provider. However, the situation is totally different in practice and in fact. I fear that such a measure could be used to cover up acts of euthanasia that would remain unpunished, because it would be impossible to prove the intentions of the health care provider.

[English]

This practice, according to Mr. David Thomas, a Crown attorney from Timmins, Ontario, seems to be already a widespread one. He told the Special Senate Committee on Euthanasia and Assisted Suicide:

In the course of my case, it became apparent that euthanasia goes on routinely across Canada, both passive and active, under the guise of aggressive palliative care. Even as we are speaking someone is probably being euthanized, and most often it goes unreported and undetected. Even in the case I handled, the chances of it being detected were extremely remote.

Therefore, I believe the administration of medication in dosages that might shorten someone's life should be tightly monitored in order to avoid any abuse. I hope some time will be spent in committee to study this problem.

In order to make the work of that committee easier, I should like to remind the Senate that the Special Senate Committee on Euthanasia and Assisted Suicide had received, during the course of its work, many amendment proposals. One of them might help solve the problem. For example, Professor Eike-Henner Kluge proposed:

In the event that the life of the person will or is likely to be shortened by the use of palliative measures involving medications or similar means, and the time-span of this shortening exceeds what would normally be expected (using appropriate and recognized palliative measures), the case shall be subject to review by an independent body consisting of a physician (having no connection with any party involved in the case), a member of the Attorney General's department of the jurisdiction in which the death has occurred, and an independent member of the public having training in ethics.

[Translation]

Honourable senators, I also have grave concerns about clause 3 of the bill. As I have already mentioned, I am in agreement with the general principle of this clause, which confirms a patient's right to refuse life-sustaining medical treatment. However, the wording of paragraph 2(b) of this clause setting out the manner in which a request that such treatment be withheld or withdrawn must be formulated leaves me wondering. I feel that this clause is incomplete and that it opens the door to numerous abuses.

[English]

It says that the request made by the patient has to be free and informed. According to clause 4, the definition of "free and informed request" means:

a request...made voluntarily, without coercion, duress, fraud, mistake or misrepresentation and with a knowledge and an understanding of the condition, its prognosis, the alternative courses of action and the foreseeable consequences of the request.

However, the bill has no mechanism to ensure that the decision of the patient respects this definition. Should not some sort of control system be put in place to ensure that the decision of the patient is voluntary and that he or she was not a victim of any constraint, be it imposed by himself or by someone else.

The case related by Nurse Rodney is a clear example of that type of situation. She appeared before the Special Committee on Euthanasia and Assisted Suicide and related the story of a 76-year old diabetic who was limited in his physical mobility and required long-term dialysis.

One day he informed the health care team that he wanted to stop dialysis. The team learned that he wanted to stop his treatments because he felt he was becoming an increasing burden on his wife. When a new care plan was put in place, providing more home care support for him to assist him and his wife, he withdrew his request to have the treatments stopped. He lived four more years.

[Translation]

Honourable senators, this case shows us that requests to have life-sustaining medical treatment withdrawn should not be taken lightly. Things are not always obvious and a decision is not always as voluntary as it might seem. The bill should include a series of criteria for requests with respect to life-sustaining medical treatment. I hope that the committee considering the bill will give some thought to this issue.

For example, a request to have treatment withdrawn should be reiterated at least once and that at least 48 hours should elapse between the two requests. The bill should provide for a process of checking with patients that their voluntary request to have treatment withheld is truly free and informed, and that it is not actually the result of temporary depression.

Honourable senators, clause 3, paragraph 2(b), also mentions that one of the ways a patient could convey the wish to have treatment withheld could be by signs and in the presence of at least one witness who is not a health care provider. Such an approach could, in my view, give rise to various problems of interpretation.

It would be dangerous to interpret the signs of certain patients. There is a risk of error that could result in the death of patients not ready to die. This state of affairs could later result in patients no longer able to speak not expressing their needs for fear of their gestures being misinterpreted. I also think that paragraph (c) of the same clause should be clarified when studied in committee.

This paragraph states that the spouse, companion or relative who is most intimately associated with the patient could request that life-sustaining medical treatment be withheld if the patient is not competent to make such a request and if no legal representative has been designated to make health care decisions on his behalf.

• (1620)

The problem posed by this clause of the bill is that there does not seem to be any order of precedence for the spouse, the companion and the closest relative.

The situation is liable to become particularly problematic if there are divergent opinions among the children of a family about the care that should be given to a parent. A friend's family went through this. One child wanted life-sustaining treatment to be stopped, while the other wanted it to be continued. Both children were very close to the mother, and I was the one who had to make the final decision. This was a very difficult situation.

[English]

Finally, I hope that close attention will be paid in committee to the “life-sustaining medical treatment” definition in Bill S-2. I do not agree with this definition, when it says that artificial hydration and nutrition are life-sustaining medical treatments. I believe that nutrition and hydration are elementary life-maintaining needs, not treatments. We do not have the right to let a person starve to death. To consider artificial hydration and nutrition as medical treatment might indeed be a step toward legalizing euthanasia and assisted suicide. If it were included in the legislation, this definition would allow health care providers to do indirectly what they cannot do directly. The door should not be opened to such practices.

[Translation]

Some might reply that some of my concerns will be addressed when the national guidelines are established, as suggested in subsection 6(a). I believe, however, that it would be preferable for us to adopt a complete bill in order to leave as few black holes as possible, thus avoiding any risk of abuse.

These, then, are some of my concerns on Bill S-2. I have raised several questions and I hope that my reflections will be useful to the committee mandated to examine the bill.

Finally, I believe that Bill S-2, which is intended to show compassion to those who suffer, must not open the door to legislation promoting euthanasia and assisted suicide. I trust that this balance will be attained.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak, this item will remain on the Orders of the Day under the name of Senator Lavoie-Roux.

[English]

BUSINESS OF THE SENATE

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I ask that all remaining items on the Order Paper stand in the order in which they are today.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, February 15, 2000, at 2 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, February 15, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (2nd Session, 36th Parliament)
 Thursday, February 10, 2000

GOVERNMENT BILLS
 (SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	none	99/12/16		
				Foreign Affairs	99/12/09	none			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	two	00/02/09		

GOVERNMENT BILLS
 (HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	none	99/12/14	99/12/16	35/99
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		Subject matter 99/11/24	99/12/06		99/12/09	99/12/09	
			99/12/06	Social Affairs, Science and Technology	99/12/07	2			
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08		
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	Aboriginal Peoples					
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15		—	—	99/12/16	99/12/16	36/99

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							
C-202	An Act to amend the Criminal Code (flight)	00/02/08							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04	Dropped from Order Paper pursuant to Rule 27(3) 00/02/08						
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	—	—	—	99/12/08		

CONTENTS

Thursday, February 10, 1999

	PAGE		PAGE
SENATORS' STATEMENTS		Senator Nolin	604
Foreign Affairs		Job Creation Programs—Possible Mismanagement of Funds—	
Russia—Conflict in Chechnya. Senator Mahovlich	597	RCMP Investigation. Senator Stratton	604
Human Resources Development		Health	
Job Creation Programs—Effect of Grants. Senator Ghitter	597	Appointments to Governing Council of the	
Ontario		Population Health Initiative. Senator Cohen	605
Warton—Influence of Warton Willie on Community.		Senator Boudreau	605
Senator Milne	598	Human Resources Development	
Propriety of E-mail Advertisement		Job Creation Programs—Possible Mismanagement of Funds—	
Senator Perrault	599	Allocation of Grants. Senator Lawson	605
The Honourable Marcel Prud'homme		Senator Boudreau	606
Felicitations on Thirty-sixth Anniversary in Parliament.		Solicitor General	
Senator Buchanan	599	Program to Tighten Security with Regard to Terrorist Activities—	
Human Resources Development		Request for Details. Senator Di Nino	606
Student Loans Program—Proposal to Raise Premiums Paid to Banks.		Senator Boudreau	606
Senator Cohen	599	Delayed Answer to Oral Question	
Dr. Martin Luther King, Jr.		Senator Hays	606
Senator Oliver	600	Aboriginal Peoples	
		Request for Response to Committee Report on Aboriginal Veterans.	
		Question by Senator Andreychuk.	
		Senator Hays (Delayed Answer)	606
<hr/>		<hr/>	
ROUTINE PROCEEDINGS		ORDERS OF THE DAY	
Situation of Official Languages in Ontario		Nisga'a Final Agreement Bill (Bill C-9)	
Notice of Inquiry. Senator Gauthier	600	Second Reading. Senator Grafstein	607
		Senator Ghitter	608
		Senator St. Germain	609
		Senator Spivak	609
		Senator Lynch-Staunton	610
		Senator Kinsella	610
		Senator Tkachuk	611
		Senator Beaudoin	614
		Senator Hays	615
		Referred to Committee.	615
QUESTION PERIOD		Medical Decisions Facilitation Bill (Bill S-2)	
Human Resources Development		Second Reading—Debate Continued. Senator Maheu	615
Millennium Scholarship Foundation—Disbursement		Business of the Senate	
of Scholarships. Senator Cochrane	600	Senator Hays	617
Senator Boudreau	601	Adjournment	
Job Creation Programs—Possible Mismanagement of Funds.		Senator Hays	617
Senator Angus	601	Progress of Legislation	i
Senator Boudreau	601		
Job Creation Programs—Possible Mismanagement of Funds—			
Dispensation of Grants. Senator Spivak	603		
Senator Boudreau	603		
Senator Lynch-Staunton	603		
Job Creation Programs—Effect of Grants. Senator Ghitter	603		
Senator Boudreau	604		
Job Creation Programs—Possible Mismanagement of Funds—			
Conditions of Receiving Grants. Senator Stratton	604		
Senator Boudreau	604		



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT •

VOLUME 138

• NUMBER 27

OFFICIAL REPORT
(HANSARD)

Tuesday, February 15, 2000



—
THE HONOURABLE GILDAS L. MOLGAT
SPEAKER

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Tuesday, February 15, 2000

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

FLAG DAY

Hon. B. Alasdair Graham: Honourable senators, today is Canada's Flag Day. Given the importance of the subject and in the event that I go slightly over the allotted three-minute time period, may I have leave now in order to continue?

Some Hon. Senators: Oh, oh!

Senator Kelleher: Do not be shy.

Senator Graham: Honourable senators, in the early moments of the 21st century, it seems difficult to imagine that our flag, the red maple leaf, was ever the subject of controversy. Yet for those who recall the very heated and lengthy debate over the subject of choosing a national flag for Canada — as I do — it was a very meaningful chapter in the story of a great country still coming to terms with its identity.

Honourable senators will recall that only three years before the celebration of its centennial, Canadians were still struggling to unite around one of the most important symbols of nationhood — a distinctive national flag. That is not to say that the new flag raised on Parliament Hill on February 15, 1965, the red maple leaf, was a novelty in our rather complicated heraldic history; it certainly was not. The maple leaf was a symbol of Canada as early as 1700, an identification stemming from Canada's aboriginal peoples who gathered maple sap every spring.

[Translation]

It was in 1834 that the Saint-Jean-Baptiste Society proposed the red maple leaf as the emblem of Canada.

[English]

In 1860, it was adopted as our national emblem on the occasion of the visit of the Prince of Wales to Toronto. Shortly thereafter, the brilliant harbinger of the Canadian autumn was put to music in *The Maple Leaf Forever*. Our Olympic athletes wore it proudly as early as 1904.

In two World Wars, our Canadian troops wore the red maple leaf on their military badges, over time becoming the dominant

symbol used by many Canadian regiments. They wore it in the victory at Vimy and in the heroic hours at Normandy, in the tragedies at Somme and Dieppe, in the liberation of Sicily, and in the valiant push to clear Europe of the horrors of Nazism. On land, in the air and on sea, our brave Canadians wore it as a badge of courage during some of the darkest hours of modern history as they fought for freedom and for a better world.

Yet, though our athletes and many of our fighting personnel wore the maple leaf with pride, it was not until 1964 that a veteran of World War I, Prime Minister Lester Pearson, took up the difficult task of persuading Canadians to formalize their private love affair with the red maple leaf in a new national flag.

• (1410)

In a speech before the national convention of the Canadian Legion in 1964, Mr. Pearson recalled going overseas in 1914 and serving with comrades named Cameron and Gleidenstein, de Chapin and O'Shaughnessy. I am quoting from Mr. Pearson himself, who said:

But we didn't fall in, or fall out as Irish Canadians or French Canadians or Dutch Canadians —

— the former prime minister recalled.

We wore the same uniform with the same maple leaf badge, and we were proud to be known as Canadians, to serve as Canadians and to die, if it had to be, as Canadians. We are all Canadians — and unhyphenated; with pride in our nation and its citizenship, pride in the symbols of that citizenship. The Flag is one such symbol.

Today, honourable senators, we celebrate that symbol. Today is Canada Flag Day. We celebrate the flag of a nation that represents hope and promise for millions of people the world over — a special star in the constellation of nation states which signifies peace and freedom and compassion and respect for human rights. Whether it is carried proudly by our Olympic athletes or worn as the badge of our wonderful peacekeepers around the world, it is, by its very presence, a glimpse of what is possible in countries where hope has often been forgotten.

As someone who has been privileged to serve in the cause of democratic development in countries from Namibia to Nicaragua, I have often had cause to reflect on what our flag means to the millions around the world who are dispossessed and hungry — to little people around the world struggling for freedom and for life itself.

The Hon. the Speaker: Honourable senators, is leave granted to allow the honourable senator to continue?

Hon. Senators: Agreed.

Senator Graham: Today, as we remember that raw day in February 35 years ago, I think of them. I think of our ancestors who, through their belief and their commitment, built this beautiful and generous nation at the northern end of the world. I think of all those who died too young in foreign wars so that we may be free.

Honourable senators, today, along with all Canadians, we celebrate the miracle of the red maple leaf. We celebrate a nation filled with hope and promise. We celebrate the values that bind all Canadians together, whether they be from Quebec or Ontario, Saskatchewan or Nova Scotia — the values of a great and talented people who have always understood that what unites us will always be much stronger than that which divides us.

[Translation]

What unites us will always be far stronger than what divides us.

[English]

We pray, honourable senators, for our children — the children born under a flag loved and respected across the planet, the children of the red maple leaf. We pray that their spirit will be strong and that they will carry the torch so that this century will be strengthened and empowered by the ideal of strength through diversity — the beautiful ideal which Canada is and always will be.

Hon. Consiglio Di Nino: Honourable senators, I am delighted to add to Senator Graham's wonderful presentation on our flag. I rise today with particular pleasure and great pride to mark National Flag Day in Canada.

Honourable senators, 49 years ago I came to this country as a young man. I was one of the millions who left post-war Europe — in my case, Italy — to begin a new life in another country. Despite almost five decades, I retain a strong affection for my country of birth, but Canada is now my home, "ma patrie." I am proud — indeed very proud — to be a Canadian, as are my children and my grandchildren.

Honourable senators, the flag we see flying on top of the Peace Tower each day is more than an emblem. It is a symbol of our national unity. Our flag is a sign of our common purpose and commitment as a nation. It is a sign that despite our many political, cultural and regional differences, our petty animosities and enmities, we have succeeded in building a country — one of the greatest in the world.

Canada's flag is known universally. Unlike so many flags, the red maple leaf does not represent oppression, tyranny, fear or

war, but peace, stability, tolerance and a willingness to work and live together.

Unlike our wonderful neighbours to the south, we Canadians are not much given to waving our flag in public. That is too bad. Personally, I think it would not be a bad thing if we did a little more flag waving. We certainly have no difficulties on Canada Day and during international sporting events. Our collective self-effacement hides the fact that we are a nation with an abiding respect for one another and a deep admiration for what we have accomplished together. We are proud to be Canadians, and rightly so.

Honourable senators, the newspapers today reveal that the original Canadian flag — first hoisted aloft here on Parliament Hill in 1965 — has been found. The details of its whereabouts since that time are not relevant here today. However, I suggest that today might be a fitting occasion for the Prime Minister to take the necessary steps to ensure that this flag, our flag, be given back to the people of Canada to whom it rightly belongs.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, on February 10, I attended a meeting, unfortunately arriving late for the sitting of the Senate. The Honourable John Buchanan showed the civility that is possible between senators from all over the country by doing me the honour of calling attention to my 36 years of parliamentary life.

[English]

He mentioned two long-time parliamentarians, one of whom was Bob Muir, a former senator, who informed him that on February 10 I was celebrating my thirty-sixth anniversary. The other was the Honourable Bob Coates. I should like to pay tribute to those who really deserve such tributes.

Bob Coates and former senator Bob Muir informed Senator Buchanan that I was here 36 years ago, which proves that we can be friends across party lines.

Having thanked Senator John Buchanan, I regret that every time something nice happens to me I am late for the occasion. I came into the chamber 10 minutes after Senator Buchanan gave his homage. Senator Bolduc, my new seatmate, said, "You should have been here."

Honourable senators, I wish to speak now about the Canadian flag. It may be of interest to you that only three surviving parliamentarians were present for the flag debate. If any student or any scholar should like to know what the debate was all about, I would be more than honoured to tell them. We three parliamentarians are alive and, hopefully, kicking. The other two parliamentarians are in the House of Commons: the Right Honourable Jean Chrétien — my friend since 1953, which has nothing to do with politics — and the Deputy Prime Minister, the Honourable Herb Gray. We are the three parliamentarians left in either House who voted for a national flag in December 1964.

Honourable senators, our flag was raised on February 15, 1965, and it was a great event for me.

• (1420)

I was pleased to hear Senator Graham's words. What has happened to this country? You are lucky that I am no longer allowed to give passionate speeches, as I used to do. It is totally forbidden by my doctor. However, I sometimes tend to get carried away. What has happened to this country? What has happened to all of us? What has happened to les Canadiens-français who have given so much to Canada?

Senator Graham mentioned that back in 1834, les Canadiens-français were the people who put forward, via la Société Saint-Jean-Baptiste, the idea that we should adopt the maple leaf as a symbol of Canada. We tend to forget that it was another Société Saint-Jean-Baptiste from the City of Quebec that asked Calixa Lavallée to write the music and Sir Adolphe-Basile Routhier to write the words of "Ô, Canada," which is sung differently in English than in French. Perhaps today, when we celebrate the thirty-fifth anniversary of the Canadian flag, we should reflect on what has happened in the past when considering the present. We are at a time when those who supported it the most are those who use it the least.

THE LATE J. ANGUS MACLEAN, P.C.

TRIBUTE

Hon. Catherine S. Callbeck: Honourable senators, it is with profound sadness that I rise to pay tribute to an exemplary Prince Edward Islander and an outstanding Canadian who passed away today. The Honourable J. Angus MacLean attained legendary status in his home province. He was revered as a grassroots politician of the highest order — a man who always fought for what he thought was right for the people he represented.

Angus MacLean was also a genuine war hero, shot down in Europe during World War II while serving with the RCAF. He spent what must have been a harrowing 10 weeks behind enemy lines before he successfully escaped. Many of his exploits were recounted with great favour in Mr. MacLean's memoirs entitled *Making It Home*. The stories contained within those pages are awe-inspiring — a testament to the man's drive, determination and commitment.

J. Angus MacLean would have been remembered as a remarkable Islander even without his unparalleled exploits in the world of politics, but it was as a politician that his reputation was cemented as a great man and a great Canadian. First elected in the by-election of 1951, he was re-elected a staggering nine times, with his last federal election victory coming in 1974. Mr. MacLean was appointed Minister of Fisheries in 1957 and served there until 1963. His career as a federal politician was one any person would look upon with a great deal of respect, but I always had the feeling that his heart was closer to home. He resigned from the House of Commons in 1976, the same year he was chosen to lead the Progressive Conservative Party of

Prince Edward Island. He was sworn in as Premier of Prince Edward Island and President of the Executive Council on May 3, 1979. Mr. MacLean retired as premier in 1981 but continued to serve as a member of the Legislative Assembly for 4th Queens until the following year.

J. Angus MacLean was a truly special individual, a man I was honoured to know. Rarely has someone achieved such levels of success in so many different venues. He was a war hero, a successful politician — both federally and provincially — and a great man. To his credit, he valued friends and family more than anything else.

At this time, I should like to offer my personal condolences to his wife, Gwen, and their children. Prince Edward Island has lost one of its greatest statesmen. He will be missed.

NATIONAL DEFENCE

EAST TIMOR—USE OF LAND MINES

Hon. J. Michael Forrestall: Honourable senators, perhaps, in a sense, this is not the day to bring this matter forward. Nevertheless, we learned this week that Canadian soldiers in East Timor have been and were equipped with remote-controlled antipersonnel land mines. A spokesman from the Department of National Defence confirmed that about 100 claymore land mines had been sent over with Canadian troops in October of last year.

The Defence Department has said that these types of claymore mines, the positive-control antipersonnel fragmentation devices, are exempt from the treaty that Canada signed with the rest of the world because these mines must be detonated deliberately by Canadian force personnel only upon identifying the target. They have said that these land mines are not indiscriminate. However, the Department of Foreign Affairs lists the claymore mine on their "SafeLane" Website under the category of "Indiscriminate Killers", along with other land mines. The United States does use claymore land mines with trip wires to booby trap the enemy, particularly in defensive positions.

While it is true, honourable senators, that these claymore mines are exempt from the treaty, the patent hypocrisy of the Minister of Foreign Affairs and the government is all too apparent.

Honourable senators, in May of 1996, Canada announced it would host an international meeting to develop a strategy for moving towards a total ban on all antipersonnel land mines. Canada passed the legislation banning land mines in November of 1997. On second reading of Bill C-22 in the other place, the minister said:

Here was a prime example of how the weapons themselves are not just a threat to fire up lands but in fact pose a danger to our own Canadian peacekeepers around the world. That is why our own army and our armed forces have taken such an active role in places like Cambodia and Bosnia to try to eliminate the land mines.

The government claimed they were supporting the principles of the land mine treaty when they destroyed almost all land mine stocks more than a month before the convention to ban them was presented for signatures. According to documents from the Department of Foreign Affairs, Canada retained a small number of mines —

...solely for mine awareness and demining training purposes as provided under Article 3(1) of the Convention.

Yet today, honourable senators, we have 100 Canadian land mines floating around East Timor. Our Armed Forces are currently deployed on 21 overseas operations in the Balkans, in the Middle East, in Asia, and in other troubled regions of the world. I think Canadians are entitled to know how many of our land mines are involved in these operations. Whether or not these mines are being used is a matter of military strategy, and people will have conflicting philosophies regarding this issue, it behoves the government to at least inform the Canadian public of their true intentions and give them the facts.

Honourable senators, if the Canadian Forces had been properly equipped for overseas peace enforcement operations, they would not have any use for claymores. This is the ultimate hypocrisy, and one that I hope can be answered.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to introduce to you some distinguished visitors in the gallery. They are speakers from provincial legislatures. I will introduce them in the order in which their province joined Confederation.

The first is the Honourable Murray Scott, Speaker of the Legislative Assembly of Nova Scotia.

Hon. Senators: Hear, hear!

The Hon. the Speaker: The next is the Honourable George Hickes, Speaker of the Legislative Assembly of Manitoba.

Hon. Senators: Hear, hear!

• (1430)

The Hon. the Speaker: The next is the Honourable Anthony Whitford, Speaker of the Legislative Assembly of the Northwest Territories.

Two other honourable provincial speakers were here yesterday. However, because of matters in their own province they, unfortunately, cannot be with us this afternoon. They were the Honourable Bev Harrison, Speaker of the Legislative Assembly of New Brunswick, and the Honourable Ron Osika, Speaker of the Legislative Assembly of Saskatchewan. I received them last night on behalf of all honourable senators. They were accompanied by their clerks, whom we welcomed as well.

I bid them all welcome on behalf of the Senate of Canada.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

ABORIGINAL GOVERNANCE

REPORT OF COMMITTEE ON STUDY TABLED

Hon. Charlie Watt: Honourable senators, I have the honour to table the third report of the Standing Senate Committee on Aboriginal Peoples, which deals with aboriginal self-governance. It is entitled, "Forging New Relationships: Aboriginal Governance in Canada."

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Watt: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

On motion of Senator Watt, report placed on the Orders of the Day for consideration later this day.

CENSUS RECORDS

PRESENTATION OF PETITIONS

Hon. Lorna Milne: Honourable senators, I have the honour to table 59 petitions addressed to the Parliament of Canada from both Canadian citizens and citizens of the United States and the United Kingdom calling upon Parliament to enact legislation to preserve the post-1901 census records, remove them to the National Archives and make these, as well as future census records, available to the public after 92 years, as is presently consistent with the many provisions of the privacy legislation and time limits now in force. These petitions contain 2,607 signatures.

QUESTION PERIOD

FOREIGN AFFAIRS

CIVIL WAR IN SUDAN— REQUEST FOR CLARIFICATION OF DIPLOMATIC POLICY

Hon. A. Raynell Andreychuk: Honourable senators, in light of Minister Axworthy's comments yesterday, would the Leader of the Government in the Senate advise me as to Canada's policy with respect to Sudan?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I wish to thank the honourable senator for her question. The minister has indicated that various measures will be put in place to assist in Sudan. In response to the Harker report, he has announced a series of new Canadian initiatives. Canada will support the return visit to Southern Sudan by the United Nations special rapporteur and will provide financial assistance to the committee on the eradication of abductions of women and children.

The minister has also indicated that in April he will use Canada's presidency of the UN Security Council to further the efforts of the Intergovernmental Authority on Development in the peace process in that area.

As well, the Department of Foreign Affairs will be opening an office in Sudan's capital, Khartoum, with a view to more closely monitoring the situation on an ongoing basis.

Senator Andreychuk: Honourable senators, I take it from the minister's comment that he is responding to the Harker report. My question was: What is Canada's position with respect to Sudan? Does the Government of Canada believe that there are gross and persistent human rights violations in Sudan? If so, what action will Canada take?

Senator Boudreau: Honourable senators, the minister has indicated a high level of concern about reported activity in that country. Some of the measures I spoke about in my previous answer will be put in place immediately. Canada's interest will continue on an ongoing basis. The minister will continue to use whatever authority he may have to impact on the situation in that country with a view toward fashioning some sort of response to the Harker report and the conditions generally in the country.

The questions asked earlier in the Senate had to do specifically with a company called Talisman Energy. In fact, the minister's position, and that of the government, is that the measures I have mentioned will be implemented and the government will be monitoring the situation there on an ongoing basis.

Senator Andreychuk: Honourable senators, I know from personal experience in the late 1980s that Canada's position was that there were gross and persistent violations of human rights, and that the most effective and strongest possible mechanisms had to be utilized to bring Sudan back into the fold of acceptable

practice as a state. At that time, actions were being taken by the United Nations Human Rights Commission and there was ongoing bilateral condemnation. At the same time, there were implementation strategies to reinforce civil society.

I take it from the minister's response that we do not consider Sudan in that situation now and that we are only now instituting monitoring mechanisms. If that is so, for what purpose? Is it to determine what our position should be in Sudan, or do we honestly believe that a signal of some monitoring advice now would change Sudan's behaviour?

Senator Boudreau: Honourable senators, quite clearly, the toll arising from the Sudanese war is nothing short of horrific. I have notes indicating that nearly 2 million people have died since 1983. Obviously, that is totally unacceptable and deplorable. In excess of 4 million people have been displaced from their homes. In fact, there are few places in the world where human security is so clearly lacking as in Sudan.

Canada has vigorously supported the regional peace process of the Intergovernmental Authority on Development and continues to do so. We believe that the declaration of principles by that body is the only viable means of achieving a just peace in Sudan. Our support will continue and be strengthened, assuming the presidency of the UN Security Council will allow us another vehicle to pursue this agenda even more aggressively than we have in the past.

Senator Andreychuk: Honourable senators, the minister has talked about past efforts. I am uncertain as to what efforts have been taken in the last five years in Sudan, if we are only now instituting some measures such as monitoring and if we will only now exercise our political will in the Security Council. These are not new issues.

CIVIL WAR IN SUDAN—INVOLVEMENT OF TALISMAN ENERGY INC.

Hon. A. Raynell Andreychuk: Honourable senators, the Vice-president of Talisman has indicated that the company disagrees with the contention that Talisman is contributing to the problems in Sudan.

Is it the position of the Government of Canada that Talisman did not contribute to the problems in Sudan?

• (1440)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, as the honourable senator may know, the Minister of Foreign Affairs met with senior Talisman executives in November. Talisman has acknowledged its responsibility to make a positive contribution in Sudan, including respect for all human rights.

The position of the government is that we anticipate Talisman will take these commitments they have made to the Minister of Foreign Affairs seriously, and we continue to look for other more effective ways — some of which I have described today — to apply pressure in that country to achieve an appropriate result.

CIVIL WAR IN SUDAN—HUMAN RIGHTS VIOLATIONS

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, does the present government support or not support General Assembly resolution 1503?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I do not have the text of that resolution in front of me, but I can certainly find out and respond quickly. I assume that we support that resolution in general.

Senator Kinsella: As the honourable senator will discover, resolution 1503 deals precisely with gross and consistent patterns of human rights violations and lays out the steps that have been agreed upon that would be taken by all member states of the United Nations. The matter raised by the Honourable Senator Andreychuk challenges Canada to assess its position and to determine if all the steps have been taken to implement that resolution. Does the minister not agree?

Senator Boudreau: Honourable senators, I agree — and I suspect the minister would also agree — that we must constantly reassess our position with respect to Sudan and our activity there. We must do whatever can possibly be done by Canada to end the horrific civil war in that country and end all its terrible consequences.

NATIONAL DEFENCE

EAST TIMOR—USE OF LAND MINES

Hon. J. Michael Forrestall: Honourable senators, I wish to return to the question of claymore land mines and the conflict that is growing between the Minister of Foreign Affairs and the Minister of National Defence. On the one hand, we had the Minister of National Defence saying that claymore land mines will stay with the forces in East Timor and elsewhere where they may be deployed. On the other hand, we had the Minister of Foreign Affairs launching an investigation and showing outrage.

Are they not members of the same caucus? They are not doing the Canadian Forces any great good by this cloud of secrecy and the suggestion of wrongdoing. Does the government, in fact, speak with one voice with respect to claymore land mines? If so, which minister is right and which is wrong?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, the existence of land mines all over the world, particularly in the Third World, has constituted a terrible hazard, and not simply to the combatants. The ongoing problem is the horrible danger it poses and the damage it inflicts on non-combatants — namely women, children and other civilians — long after the conflict has ended.

The thrust of the land mine treaty was to deal with the situation where land mines are left in an arena that is no longer an arena of war, or even where there is still a war, because those land mines operate indiscriminately. I am not an expert, but land mines will indiscriminately detonate. The land mine treaty was the result of finding a way to deal with this danger.

Honourable senators, a distinction must be drawn here. The reason the minister said the defensive weapons in question do not breach the agreement is that they are deliberately detonated by an operator. In this case, armies have weapons that kill people, and that is regrettable.

The distinction made by the Minister of National Defence is that the land mines in question are used by an armed force as a defensive weapon and detonated against a particular enemy, much as any weapon might be fired by an armed force against an enemy. The element of indiscriminate slaughter to civilians does not exist in these situations. That is my understanding.

Senator Stratton: When is a land mine not a land mine?

Senator Forrestall: Honourable senators, I thank the minister for the lecture, but I wish he would answer my question.

Senator Di Nino: Good luck!

Senator Forrestall: Let me put it as simply as I can, honourable senators. If the Government of Canada does have a position on the issue of claymore land mines, what is it?

Senator Boudreau: Honourable senators, the Government of Canada took a position when it signed the land mine treaty. That is as clear a position as any government could ever take. The federal government made a commitment under the treaty that they would abide by its terms, and they have. No one has informed me of any allegation that the government has breached the treaty.

Senator Lynch-Staunton: They breached the spirit of it!

Senator Boudreau: This is not a minor difference. We are not talking about a trivial distinction.

Senator Forrestall: We are talking about a public battle between Minister Axworthy and Minister Eggleton.

Senator Boudreau: We are talking about a situation where the risk was to the civilian, non-combatant population, a situation which would continue long after the combatants left the field. That is quite different from what we are talking about with regard to the specific weapon.

The Minister of Foreign Affairs is concerned about the presence of any land mines, and I am sure that he will continue to work towards the elimination of all such weapons, as should we all.

Senator Forrestall: On whose side is the Leader of the Government, honourable senators? Is he on the side of Minister Eggleton or on the side of Minister Axworthy? He cannot be on both sides, which is where he conveniently has himself right now. I suggest that he have his briefers look at this issue tonight and give him a briefing note so that we might resolve this issue one way or the other tomorrow. Presumably, Ministers Eggleton and Axworthy sat on the same committee of cabinet that approved the use of land mines by Canadian Armed Forces personnel in peacekeeping operations.

Where does the leader stand? On whose side does he stand?

Senator Boudreau: I do not suppose it will shock the honourable senator when I say that I support both ministers.

Senator Lynch-Staunton: No matter what they think?

Senator Boudreau: I do not think that is inconsistent.

Senator Di Nino: Why are we not surprised?

Senator Boudreau: The Minister of National Defence has an obligation, which I support, to abide by the terms of a treaty that Canada signed, and which led the way in achieving that very noteworthy milestone. I support Canada's continued compliance with that treaty. I repeat: There is no allegation by anyone that we are not complying with the treaty.

I am sure that the Minister of Foreign Affairs desires to see all sorts of weapons banned, and I support him. I wish to see all military weapons ultimately banned by everyone. I do not think that will happen tomorrow, but it is something I can support. Someday, my hope is that even military helicopters might be banned.

Some Hon. Senators: Shame!

Senator Di Nino: When you do not have any, you cannot ban them.

Senator Boudreau: I say to the honourable senator that I do not think the positions taken by the ministers are in conflict.

Senator Forrestall: The honourable leader does not?

Senator Lynch-Staunton: That is a Liberal interpretation.

Senator Forrestall: Great Liberal interpretation is right.

• (1450)

COURT MARTIAL OF SERGEANT MIKE KIPLING

Hon. Norman K. Atkins: Honourable senators, my question is directed to the Leader of the Government in the Senate. I understand the reasons behind inoculating Canadian military personnel against biological weapons. However, I do not understand why, now that Sergeant Mike Kipling has left the Canadian Forces and ended his career, the military continues with its court martial. This court martial continues despite the fact that it is clear that Canadian Forces personnel were not properly inoculated, that they were inoculated with outdated vaccine, and that they were inoculated against legal and medical advice.

Can the Leader of the Government explain to the Senate the government's reasoning on this court martial and how this is in keeping with real military justice?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I appreciate the honourable senator's

concern and the fact that he raises this with us here in the Senate. However, I feel some reluctance to comment in detail on that issue since it is presently the matter of a judicial proceeding. It is a military judicial proceeding but, nevertheless, a judicial proceeding. Any arguments which may be available will presumably be used on behalf of the individual, and the matter will be resolved in the due course of military justice. I would be reluctant to interfere with that or even comment on it.

Senator Atkins: In view of the fact that Sergeant Kipling was given an honorary discharge, why does he continue to be charged in a military court? Should he not be dealt with in a civilian court?

Senator Boudreau: Honourable senators, I cannot answer that question. One would presume that if the jurisdiction and the approach are wrong, competent counsel on behalf of Sergeant Kipling will raise the objections and they will be successful. I hesitate to comment.

FOREIGN AFFAIRS

CHINA—DETENTION OF CATHOLIC ARCHBISHOP

Hon. Consiglio Di Nino: Honourable senators are all aware that there is a debate ongoing in this chamber regarding religious freedom and human rights abuses in China. Some of our honourable colleagues have suggested that religious freedom is not much of a problem there.

Since Canada has maintained that we are very good friends with China, would the Leader of the Government share with us the government's position on the recent jailing of a Chinese Catholic archbishop by the government in Beijing for refusing to renounce his loyalty to the Pope and become a humble sheep of the state-approved Catholic Church?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am not in a position at this stage to indicate the position of the government. However, I will take notice of that inquiry, seek the information, and return it to the honourable senator as soon as possible. I personally am always in favour of allegiance to the Pope.

Senator Di Nino: As a good Catholic, obviously.

REQUEST FOR CLARIFICATION OF HUMAN RIGHTS POLICY BETWEEN LARGE AND SMALL COUNTRIES

Hon. Consiglio Di Nino: Honourable senators, at the same time would the minister find out for us what his government's position is on China's stated policy that there are only five recognized religions in China which, by the way, does not include, among others, Judaism?

Does the government agree that its human rights security agenda includes all countries, including China, and is not restricted to only small countries?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, clearly the agenda must include all countries if it is to be meaningful.

With respect to the position on the five recognized religions, I have not been made aware of a formal response. However, I cannot imagine that the Government of Canada would view with approval a situation where a religion, Judaism being the example the honourable member gave, would not be allowed to be practised freely. In that situation, I am sure that the government would not believe that there was true religious freedom in that jurisdiction.

Senator Di Nino: Would the minister also answer the question on whether the human rights agenda is restricted only to small countries. Does the agenda include China as well?

Senator Boudreau: I believe that the human rights agenda should apply across the board to all countries. However, if I can get a more definitive response for the honourable senator, I will.

CHINA—DETENTION OF CATHOLIC ARCHBISHOP

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is supplementary to that of Senator Di Nino. Could the minister, in making his inquiries, ask his colleague the Minister of Foreign Affairs to ask whether the Chinese ambassador to Canada would intervene to secure the liberty of Archbishop Yang, the 80-year-old Roman Catholic Archbishop arrested in Fuzhou yesterday by the security police?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I will certainly bring that question to the minister.

HUMAN RESOURCES DEVELOPMENT

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT OF FUNDS—DISTRIBUTION OF GRANTS

Hon. Marjory LeBreton: Honourable senators, on Thursday last, the Leader of the Government in the Senate, in response to a question posed by my colleague Senator Angus stated that opposition ridings received more Transitional Jobs Fund grants and payments than did Liberal-held ridings. He said that of the 1,083 projects approved, 568, or over half, went to opposition-held ridings.

Since he obviously must have a detailed list of these projects and payments, would the Leader of the Government table a detailed list in the Senate, broken down riding by riding, indicating those held by the government and those held by the opposition?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, that issue was raised by another honourable senator in the last Question Period. I indicated at that time that I would table the information that I had in my possession. Obviously, I do not run the department. The information I have is

very succinct. I have delayed tabling it because I believe that a more complete answer than I currently have in my possession is warranted. I believe that such a response will be forthcoming, but I do not have it with me today.

Senator LeBreton: Honourable senators, in addition to the detailed riding list, and bearing in mind that all but one of the ridings in Atlantic Canada were held by government members prior to the 1997 election, would the Leader of the Government in the Senate also undertake to table this information listed by date, specifically the month and year the program funds were approved?

Senator Boudreau: Honourable senators, any information I provide will be as complete as possible. Since, as I have said, that information is not in my possession, I do not know exactly what form it is in, but I will certainly provide information in as complete a manner as possible.

TRANSITIONAL JOBS FUND— UNEMPLOYMENT RATE QUALIFYING LEVEL

Hon. Ron Gitter: Honourable senators, could the Leader of the Government in the Senate advise us as to what the level of employment must be in an area in order to qualify for a Transitional Jobs Fund grant under HRDC?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I am going from recollection so I stand to be corrected, but I believe that initially the required level of unemployment was 12 per cent. It then dropped to 10 per cent because the general unemployment rate across the country declined, as we are all happy to acknowledge.

An Hon. Senator: Because of the job creation program?

Senator Boudreau: Yes, one of the reasons might be the job creation program.

That is my recollection of the situation and I hope that is correct.

Senator Gitter: Honourable senators, perhaps the program is no longer necessary because unemployment is no longer a problem in Canada, as we often hear. However, would the Leader of the Government in the Senate explain to the chamber the theory of pockets of unemployment with regard to the awarding of HRDC grants?

Senator Lynch-Staunton: You put it in the pocket of the minister.

Senator Boudreau: First, I wish to state, as strongly as possible, that I disagree with the honourable senator's comments that the program is no longer necessary, that unemployment has been vanquished entirely throughout the country, and that we need not worry about it any longer. There are areas of this country where unemployment remains a serious problem. One of them is the area of the country where I was born and raised. I would take strong exception to the senator's comment.

• (1500)

Regardless of the general area of unemployment, if you are unemployed, then the unemployment rate for you is 100 per cent.

Senator Ghitter: Answer the question!

Senator Boudreau: In those circumstances, it is a very important point to be made. It is likely one on which the senator and I disagree fundamentally. However, I wish to make that point.

In response to the question of various pockets of unemployment, it is the case that in certain areas are considered by HRDC as a result of unemployment statistics. While overall the unemployment statistics may be fine within that area, perhaps because it is fairly wide geographically, there may be pockets of high unemployment. In those cases, the program can be brought to bear, as I understand it.

TRANSITIONAL JOBS FUND—UNEMPLOYMENT RATE
QUALIFYING LEVEL FOR EDMONTON WEST

Hon. Ron Ghitter: In 1997 and 1998, did the City of Edmonton and the constituency of Edmonton West fall into that category?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I cannot respond to that question, offhand. I could make the inquiry and get the information as to what the criteria were and how one determines a pocket within a given HRDC region.

Senator Ghitter: Could it be that a pocket for bestowing grants may be one where it is to the advantage of a minister in his or her particular riding before an election, as in Edmonton West? Prior to the 1997 election, three grants were given out in an area where unemployment was far under the thresholds that the leader stated. Could it be that the minister had some influence over the policy in order, in a tough election, to create a little more interest and support in the riding? Could one come to that conclusion by looking at these numbers?

Senator Lynch-Staunton: Yes or no.

Senator Boudreau: Honourable senators, of course, I am not familiar with the individual grant. There are about 30,000 files and I am not familiar with all of them.

Senator Meighen: Of course not, you are busy in Nova Scotia!

Senator Boudreau: I cannot speak to individual grants. There are approximately 30,000 files. I am not familiar with all of them. The HRDC figures for the Transitional Jobs Fund indicate that over half of these grants went into opposition ridings. I am sure that some of them went into government ridings and some of them must have gone into ministers' ridings.

However, even in areas of relatively low employment, for example, in Edmonton and in Winnipeg — potentially, there are,

for example, the urban aboriginal communities, pockets that suffer incredibly high rates of unemployment. Perhaps one of these grants was an aboriginal development grant for that group. I do not know. I would maintain that one cannot jump to the conclusion that the honourable senator suggests.

Senator Ghitter: That is an interesting observation, honourable senators, considering that, I believe, in Winnipeg North, where there is a large aboriginal population with a high degree of unemployment, no grants were given. I wonder if that would have been the same if Minister Axworthy were the representative in that area.

JOB CREATION PROGRAMS—POSSIBLE MISMANAGEMENT
OF FUNDS—GRANT TO DEVELOPER OF WAREHOUSE
TO STORE WAL-MART STOCK

Hon. Ron Ghitter: Honourable senators, it was reported this morning that Wal-Mart's net income in the fourth quarter of last year was \$1.92 billion. I do not think a developer that has Wal-Mart as a potential tenant would have any trouble going to the bank to raise money in order to put that development up for Wal-Mart.

Could the Leader of the Government please explain what possible justification there might be in the government giving a \$500,000 grant to a well-heeled Canadian developer in order to place a warehouse in a particular area, this considering that any amount of money could be raised with Wal-Mart's covenant, considering their profits and the desirability of their covenant?

An Hon. Senator: Shame!

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I find that a relatively easy question to answer. Perhaps it is because I come from Nova Scotia. However, in the past, governments of all political stripes that have had a chance to govern in Nova Scotia — that would be two — have dealt with criticism precisely of that nature. Grants are given to Sobey's, Michelin, Wal-Mart and others, to create jobs. That is what it is all about, since jobs would not otherwise be created in that area. It happens all the time.

Senator Lynch-Staunton: They are loans, not grants.

Senator Boudreau: Personally, I feel better. If the government gives a grant to some fly-by-night outfit that declares bankruptcy, the criticism is: What are you doing, dealing with a business like that? Why do you not deal with a responsible business that has a track record and substance. If you give the grant to someone who is likely to use the money to create the jobs and have substance, you get criticism on the other side.

If a Wal-Mart, a J.D. Irving, a Michelin or any of those are prepared to create jobs in areas of high employment where they would not have created the jobs otherwise, so much the better. This is, perhaps, not as much a need in downtown Toronto, but it is the case in many areas of the country. I am more comfortable giving it to them than some fly-by-night outfit of which I have never heard.

Senator Ghitter: Honourable senators, the Leader of the Government has just given the very reasons why these grants should be scrapped. To suggest that one must give money to the Wal-Marts, the Sobey's, the Vidéotrons and the Bombardiers of the world is inappropriate. If the business operation works, let them do it. They do not need government grants to make it happen. That is where we differ as to what these grants are all about.

I would argue that you ought not to give money to these companies. If it works, they will do it. I can remember, a government grant of \$200,000 to open a tube mill in Brooks, Alberta. It did not work because the employment was not there. The tube mill closed down. You cannot artificially, by a band-aid approach, come up with these programs and suggest you are creating jobs. If it works in a business sense, it will work. You do not need government money. Wal-Mart, with its \$1.9-billion net profit does not hurt the Government of Canada. Their credit rating is better than the Government of Canada's.

The Hon. the Speaker: Honourable senators, I wish to remind you that Question Period is not a period for debate. I call Delayed Answers to Oral Questions.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, we would like to ask for leave to extend Question Period to provide an opportunity to the Leader of the Government to answer the question.

The Hon. the Speaker: Honourable senators, is leave granted to extend the time for Question Period in order for the Leader of the Government to reply?

Hon. Senators: Agreed.

Senator Lynch-Staunton: Take your time.

Senator Boudreau: Honourable senators, as I said before, I think the honourable senator has raised the level of debate on the issue. We disagree on that point. I respect his views. I respect the position that he takes. However, I do not agree with it. There are many examples I could cite where government intervention, at an appropriate moment, in a reasonable way, has resulted in many long-term and permanent jobs. Michelin employs thousands of Nova Scotians. It has now become the largest value exporter from our province. They would not have been there without government intervention. They have been there for decades.

I cannot resist saying to the honourable senator that when the leader of his party was in Halifax just the other weekend, I do not recall any objections to the kind of job creation programs that we are talking about and that past governments throughout this country have engaged in, including Conservative governments.

Some Hon. Senators: Hear, hear!

PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I wish to introduce the House of Commons page who is on exchange with us this week. Her name is Christie Meadows. She is pursuing her studies in political science at the Faculty of Public Affairs and Management at Carleton University. Christie is from Labrador City, Newfoundland and Labrador.

On behalf of all honourable senators, I bid you welcome here in the Senate. We hope that you find your week with us interesting and constructive.

ORDERS OF THE DAY

CRIMINAL RECORDS ACT

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker: Honourable senators, a message has been received from the House of Commons to return Bill C-7, to amend the Criminal Records Act and to amend another act in consequence, and to acquaint the Senate that the Commons have agreed to the amendments made by the Senate to this bill without amendment.

• (1510)

MEDICAL DECISIONS FACILITATION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, seconded by the Honourable Senator Pépin, for the second reading of Bill S-2, to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain.—(*Honourable Senator Lavoie-Roux*).

Hon. Mabel M. DeWare: Honourable senators, I rise today to participate in the second reading debate on Bill S-2, the proposed Medical Decisions Facilitation legislation, which was introduced by our colleague, Senator Sharon Carstairs.

As we all know, another of our colleagues, Senator Thérèse Lavoie-Roux, also has a keen interest in health care matters. She has maintained that interest throughout her career and continues it through her work in this chamber. Notably, Senator Lavoie-Roux co-chaired the Special Senate Committee on Euthanasia and Assisted Suicide, of which I was also a member. In April 1999, she introduced Bill S-29, the proposed Protection of Patients and Health Care Providers Act, which was a predecessor of Bill S-2. Bill S-29 passed second reading and was referred to committee before Parliament prorogued in September.

Honourable senators, because of this history, Senator Lavoie-Roux wanted to speak on Bill S-2 herself before it went to committee. Regrettably, however, she cannot be here in person. However, she did share with me her comments and concerns about this legislation and I should like to pass them on to you, along with some of my own comments.

Senator Lavoie-Roux is very concerned about mounting public pressure for the legalization of euthanasia and assisted suicide. She feels strongly — as I am sure we all do — about Parliament's role in clarifying ambiguities in the law, ambiguities that can lead to misinterpretations. Witnesses who appeared before the Special Senate Committee on Euthanasia and Assisted Suicide in 1993 and 1994 pointed out that there is confusion about the legal status of withholding or withdrawing life-sustaining treatment. This alarmed the committee, and we recommended that the law be clarified, just as the Law Reform Commission had in its 1983 report.

Key to the importance of the issue at hand is the need to exercise caution and to ensure that there are safeguards that protect the sanctity of life. Where we draw the line is one of the grey areas, which Bill S-2 seeks to clarify.

Previous attempts to address this grey area were included in Bill S-29, which was a follow-up to the recommendations of the Law Reform Commission of Canada's "Report on Euthanasia, Aiding Suicide and Cessation of Treatment" and the Special Senate Committee on Euthanasia and Assisted Suicide's report, "Of Life and Death." Senator Lavoie-Roux told me, however, that she has since been warned about the questionable need for such legislation. That is because there have been developments in current medical practice in Canada, such as accredited training programs in end-of-life care, and because of the fact that existing law does not provide immunity to health care providers who commit wrongdoing.

There is also strong opposition to the legalization of euthanasia and assisted suicide, reflecting a concern that Canadian law must protect vulnerable patients. It is therefore important that any bill dealing with end-of-life treatment be sound and free of any omissions or ambiguity in the law that may risk opening the door to euthanasia or assisted suicide. As long as there is ambiguity in the law and, more important, in the minds of health care providers, there exists a threat to the lives of Canadians.

First, I wish to make it clear that Senator Lavoie-Roux recognizes the good intentions of Bill S-2 and the spirit in which it was introduced. However, she believes it could fall short of attaining its goal to protect health care providers who seek to honour their patients' wishes. She wants us to make sure that we do not in any way open the door to euthanasia or to the slippery

slope that can lead to the practice of mercy killing in Canada, as in the case of Holland.

Senator Lavoie-Roux is also very concerned that Bill S-2 does not provide the necessary safeguards to ensure against such a danger. For example, Canadian Physicians for Life told her that Bill S-2 could:

...weaken the current status that protects vulnerable patients, such as the elderly, disabled or incompetent.

Of course, we all recognize that this is not what is intended by the bill.

Honourable senators, I wish also to outline key concerns with Bill S-2. The first involves what we see as a major omission. Obtaining consent from the patient, or a substitute decision-maker, is not mentioned where the administration of pain-control medication is concerned, even if the medication may inadvertently shorten the life of the patient. Clause 2 of the bill reads:

No health care provider is guilty of an offence under the *Criminal Code* by reason only that the health care provider, for the purpose of alleviating the physical pain of a person but not to cause death, administers medication to that person in dosages that might shorten the life of the person.

There is no mention of the obligation to obtain consent, either from the patient or from the representative, before administering medication. Requiring free and informed consent is an extra protection for patients. Not getting consent before administering medication that could bring about someone's death is called euthanasia. Senator Lavoie-Roux is therefore concerned that this bill could move Canada toward the legalization of euthanasia. She also reminds us that the Special Senate Committee on Euthanasia and Assisted Suicide, of which we were a part, certainly did not support the idea of administering pain-control medication without a patient's consent.

In this area, I must admit that I personally feel there are definitely times when a patient's consent is not available to the doctor because of the condition of the patient; also, at times, doctors must use their own discretion in such cases.

Bill S-2 is a stand-alone piece of legislation rather than an amendment to the Criminal Code, even though it addresses criminal immunity. Preferred legal practice would be to simply amend the Criminal Code. It appears that the format of a stand-alone statute was chosen in order to include a preamble comprised of certain recommendations from "Of Life and Death." A statute, however, may not be suitable for writing up a five-year-old recommendation from a Senate subcommittee.

As Senator Carstairs once pointed out, it is not legal practice to have a preamble in a statute. If context needs to be provided, then a summary section is the standard practice. Furthermore, the bill's provisions should be clear enough to allow the reader to understand its intent.

When asked why she had introduced a bill intending to amend the Criminal Code, without simply making it an amendment to the Criminal Code, Senator Carstairs pointed out the difficulty of incorporating national guidelines, education standards and research practices into such legislation. Certainly, we can all commend Senator Carstairs' desire to promote public education about palliative care, to advocate further training of health care professionals in the field, and to encourage evaluative research.

When Senator Losier-Cool spoke to Bill S-2, she underlined the importance of improving accessibility to quality palliative care services throughout the country. I am also a strong proponent of palliative care services. I fully support the idea of re-examining, for instance, how people are cared for in their later stages of life and, as well, how we can help those caring for them, whether in hospitals, long-term care institutions or at home. What better way is there to counteract public pressure for euthanasia than by providing suitable alternatives, namely, good, accessible palliative care?

The question of palliative care and what it means is a very important one and it is one that Bill S-2 attempts to address. However, I am not sure that this particular bill is the place to enforce provisions regarding public education, training and research into palliative care. It is intended to provide a criminal defence. Palliative care reform is a separate issue entirely. However, it needs to be addressed.

Honourable senators, there is also a concern that there may be a problem with the bill's attempt to deal with advance directives and substitute decisions. Legislation concerning advance directives or "living wills," and the appointment of substitute decision-makers, falls under the jurisdiction of the provinces. I do not see a need to outline the steps by which proxies are appointed, as Bill S-2 does, thus bordering on provincial jurisdiction. Instead, the bill could require that provincial laws be honoured — that they guide the process of obtaining consent or making a request with respect to health care decisions, as Bill S-29 stipulated.

• (1520)

As we know, one of the biggest challenges in introducing statutes dealing with health care is to bridge two different fields: law and medicine. The medical community understandably will be resistant to legislation formally stating that pain control medication might shorten the life of a person. Most experts will maintain that sedation, properly administered, will not bring about death. It is possible to draft legislation, as we saw with Bill S-29, that prevents such problems by omitting the phrase "that might shorten the life of a person."

The issue of creating guidelines for withdrawing or withholding life-sustaining treatment and for administering pain control medications must also be considered. Guidelines are needed with respect to these practices, and they were a crucial element in the special Senate committee's unanimous

recommendations. However, we continue to witness the reluctance of the federal government to take action to set such standards.

Senator Lavoie-Roux introduced the notion of a government obligation to set guidelines last spring. Bill S-2 hints at such a notion by giving the Minister of Health the option of establishing national guidelines in coordination with provincial — not federal — authorities and associations. For such a bill to be effective, she feels the Department of Health must set guidelines and must set them after extensive consultation with provincial and federal authorities.

Bill S-2 attempts both to provide a defence for health care providers accused of murder and to advocate the need for palliative care reform. Each of these elements does indeed have a great deal of merit. However, Bill S-2 could create a legislative patchwork that runs the risk of being unconstitutional.

For all of these reasons, Senator Lavoie-Roux told me that she will not be supporting Bill S-2.

Honourable senators, I urge you to consider these concerns, as well as the comments and observations that have been made on this legislation by others, both within and outside this chamber. When dealing with such important matters of life and death, we cannot be cautious enough. However, I wish to commend Senator Carstairs for her introduction of Bill S-2, and I look forward to the committee's deliberations on this bill.

On motion of Senator Cools, debate adjourned.

PUBLIC SERVICE WHISTLE-BLOWING BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator DeWare, for the second reading of Bill S-13, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers.—
(Honourable Senator Finestone, P.C.).

Hon. Sheila Finestone: Honourable senators, I am pleased to have the opportunity to speak to Bill S-13, the Public Service Whistle-Blowing Bill proposed by the Honourable Deputy Leader of the Opposition. This bill attempts to deal with crucial issues in the public service and its relationship to Parliament and the public. This bill is meant to provide the mechanism for public servants who see corruption to report it, to protect from retaliation public servants who speak out on allegations of wrongdoing in the workplace, and to promote a common standard of ethics, awareness of the importance of reporting and the existence of the mechanism that permits it.

Whistle-blowing mechanisms have already been put into place in other jurisdictions. In the United States, the Office of Special Counsel has already existed for 20 years with this type of mandate. In February 1999, Elaine Kaplan, Special Counsel of the U.S. Office of Special Counsel, stressed that whistle-blowing legislation and mechanisms are crucial to fighting against government corruption. She indicated:

...without effective protections for whistle blowers ... any anti-corruption effort is doomed to fail because it denies those seeking to root out official corruption the most valuable source of information about its existence — public employees.... The theory is that the public employees — because of their work — are uniquely situated to bring attention to official corruption — they are valuable instruments of good government.

The concept of whistle-blowing is relatively recent. The word itself dates back only to the 1960s. In Canada, the concept of whistle-blowing has come forward only during the last two decades as our government institutions have evolved to meet the needs of a modern technological society, a growing public service with diverse functions, a need to decentralize and delegate to make decision-making more efficient, and to get rid of red tape and to empower their managers to new levels of responsibility for interpreting and enacting public laws.

These changes have thrown old relationships into new balances and created new potential tensions between individuals — that is, public servants — and their work environment. The traditional approach to the public service sees the solution to this type of tension in hierarchical reporting relationships, where everyone reports up the chain of command, each employee implicitly obeys his supervisor, and final decisions are final. Disagreements are only tolerated, if at all, until the final decision is communicated. Those who do not fit into this framework are soon shelved or leave of their own volition. It also means that there is almost no recourse for anyone treated unfairly by a boss or who sees an illegal act being carried out by a superior. Reporting up the chain of command simply may alert the wrongdoer and enable them to take revenge. Those who go outside the chain of command face stiff penalties, no matter how just their actions. They are considered disloyal and therefore lose their protection from both managerial retaliation and partisan politics. The common law in Canada currently gives only the most narrow of protections to whistle-blowers, even when their allegations are proven to be true.

Aspects of this traditional approach are still strong within the public service but are often being challenged now by other trends. New approaches to service delivery require decentralized decision-making. The complexities of modern issues cut across old hierarchies, requiring coordination and cooperation across governments, between different levels of government, with private and voluntary sector organizations and with other countries. As government has become more involved in

regulating various domains, it becomes increasingly dependent on public servants, experts and professional opinions with regard to some crucial public policy questions.

In this new environment, when government is trying to decentralize decision-making to increase efficiency, when access-to-information laws make protection of confidential material moot, what is the new role of the public servant? What responsibility do individuals have to their superiors, to the public and to themselves? As public servants are left more often to take blame for decisions, do they have any right to disclosure of how those decisions were reached? Are there not sometimes conflicts of interest between the need to give complete information and the need for loyalty to the organization? How is the public interest better served in these instances, and who will judge?

The cases most often given in the press involve clear cases of fraud or other illegal activity. In those instances, honourable senators, it is clear that the duty of every public servant who becomes aware of these illegal acts is to inform the police. At other times, the clash of interests is not so clearly resolved. An expert within a particular field may have professional standards that differ from what is found in the law or in regulations. When experts are employed as public servants, are they duty bound to make known these discrepancies and what it might mean?

• (1530)

In the areas of public health and safety, many citizens might feel it is better to err on the side of caution rather than expediency. Even one error in these fields can have long-lasting and dramatic effects. The use of tainted blood in health systems is one example where a more conservative approach to testing blood and ensuring that it is free of disease would have saved lives. The earlier example of thalidomide and its horrific effects is still a powerful incentive to scientists to proceed cautiously in approving drugs for wide use.

In the United States, the Challenger disaster and the public loss of life brought to the fore the disagreements among engineers, who were public servants at that point, and their supervisors at NASA about the safety of certain parts that were subsequently shown to have caused this terrible catastrophe.

Thus, we should ask and we should clarify: What is the duty of the government expert when conflicts arise between professional standards and government regulations. How are such conflicts to be resolved when there is a disagreement on the potential risks, when government may have decentralized its operations to managers who are then tasked with making such decisions? Let us remember that there is not often the same clarity between the intent of the law and the regulations and those public servants who have to interpret the intent of the law and write those regulations.

Engineering and other professional associations have now drafted guidelines for what I call "dissenting on ethical grounds," to help individuals on how to proceed where their professional judgments differ from the instructions they are given by their supervisors. It is quite right, therefore, that this bill proposes that one of the main functions to be carried out in the public service is a similar effort at educating public servants about the ethics of decision making and the mechanisms available to them to highlight their serious concerns without being labelled as troublemakers. At the same time, because allegations of wrongdoing have serious consequences, the guidelines for how to proceed must include the criteria for how such allegations will be assessed and the penalties for making frivolous allegations.

The need for an independent public interest commissioner as proposed in this bill is also clear. Currently, if public servants perceive certain processes or actions to be wasteful or unwise, to whom do they report it? Reporting waste in programs that the government of the day does not strongly support is usually not difficult. Reporting waste in initiatives that the government has strongly supported and publicized can be more problematic. From the political level, such reports can seem to indicate lack of loyalty or commitment to the government's priorities. Therefore, it is essential to have a mechanism independent of the government through which such allegations of waste and corruption can be vetted. Without such independence, the scope of action possible after an allegation is made will be extremely limited.

Honourable senators, I come finally to the question of what happens to individuals who do attempt to report fraud, illegal acts, waste, inefficiency, risks and differences between government regulations and professional standards or harassment. Some organizations have created the position of ombudsman to investigate such claims while trying to keep the identity of the accusers protected. Human rights legislation and civil law give employees avenues to pursue harassment and discrimination issues through the courts or through human rights tribunals. These processes are, however, long, drawn out, and fraught with risk for the individual. Any pursuit of the employer is costly. When the employer is the government, its access to legal advice and assistance is endless. What happens then to the employee? In the meantime, that employee works under a cloud, being perceived as disloyal, a troublemaker, et cetera.

As U.S. special counsel Elaine Kaplan pointed out about public service whistle-blowers:

— unlike private citizens in a democracy, they are uniquely vulnerable to retaliation by the very officials and institutions whose corruption they have disclosed. At the one extreme, those officials have the power to take away a whistle blower's livelihood and destroy their professional reputation. Or they can, in more subtle ways, make their daily lives miserable by isolating them or denying them work assignments and opportunities for advancement.

The need to protect the whistle-blower, as provided for in this proposed legislation, is therefore crucial. The need for an

independent public interest commissioner is reinforced, as this individual would be responsible for maintaining the confidentiality of allegations made and cannot be beholden to government in carrying out the mandate of the position. Similarly, the penalties for punishing a whistle-blower who is making allegations must be powerful enough to discourage anyone from taking such a course, other than with a well-founded, well-intentioned concern for the public good.

Given the changing context of the public service and our society, given the changing values we place on loyalty to an organization compared to loyalty to a professional standard, to a strong sense of morality, or to what is called the public interest, the potential for conflict between individuals and their employer has also grown dramatically. The need to protect individuals who seek to reveal information for these motives has increased correspondingly.

Even if the government acted today, Canada would not be a leader in enacting whistle-blowing legislation. In addition to the United States, as noted in the excellent research provided to us by the Library of Parliament, Australia at both the federal and state levels, and Britain, have passed legislation or regulations for the protection of whistle-blowers in the public service. We are a bit late in that regard.

In Canada, New Brunswick appears to be the only jurisdiction in which such legislation exists, although its scope is limited to the alleged violation of provincial and federal legislation, and would not cover allegations of waste, mismanagement or generally non-legislated health and safety risks to the public. Ontario, although it has passed a very good act that gives broad protection to public-sector whistle-blowers, has, under the current administration of that province, not yet had the act proclaimed by the Lieutenant-Governor.

For all the above reasons, honourable senators, I think that Senator Kinsella's proposed whistle-blowing bill is timely and should be thoroughly reviewed and considered. A number of issues need to be given careful thought in committee.

First, the designation of a public service commissioner as a public interest commissioner is an interesting proposal, since the commission reports to Parliament and is at arm's length from the government of the day. However, passing this framework legislation will not guarantee the necessary resources to that commissioner for the mandate that needs to be carried out. Too often in the past, governments at all levels created human rights mechanisms only to subsequently slash their resources. Creating another underresourced structure in the public service will not increase its credibility. It will raise expectations that, if sufficiently publicized, will simply create an instant overload in the cases waiting to be dealt with. The waiting period for several years, familiar to those of us who work with human rights commissions, will soon reappear. Therefore, this issue needs to be highlighted in our deliberations. We need to call appropriate witnesses in this regard.

Second, the exception provided for disclosure of a whistle-blower's identity in clause 20(2) where the commission determines that allegations were not made in good faith and on the basis of reasonable belief causes me some concern. What is reasonable belief to one person is not necessarily that to another person. This kind of criteria can be somewhat subjective and open to influence of various prejudices. If the interpretation is too strict, it will simply have the effect of chilling all complaints. This ground for disclosure should be thoroughly defined.

Third, clause 9(4) needs a similarly detailed explanation as to the meaning of "reasonable" in the phrase, "unless the employee is prompted by reasonable concerns for public health or safety." This interpretation of "reasonable" has a direct impact on the interpretation of "reasonable belief" in clause 20(2).

The kind of ethical dilemmas I have outlined in my speech already exist in the public service. It is obvious that the ethical balance between loyalty and the need for full disclosure is becoming more critical in the operations of this new and complex government.

In passing whistle-blowing legislation, we will take a major step in allowing our public service and our public servants who are hard working and well intentioned to face the growing challenges of delegated power, disclosure and the need for accountability in the use of public funds.

• (1540)

This bill, with the few minor caveats I have mentioned, will, I believe, give Canada a tool to achieve this goal in a way that educates and promotes a common ethical approach across the public service, and in a way that protects the anonymity of those who come forward to identify wrongful acts and omissions. I strongly support this legislation and recommend that it go to committee for further study.

On motion of Senator Lynch-Staunton, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Wilfred P. Moore moved the second reading of Bill C-202, to amend the Criminal Code (flight).—(*Honourable Senator Hays*).

He said: Honourable senators, I rise in support of Bill C-202. Mr. Dan McTeague, the honourable member for Pickering—Ajax—Uxbridge, is to be commended for

introducing Bill C-202, on motorists' flight from police, this past fall in the other place. Honourable senators may recall it was first introduced as Bill C-440 in October of 1998, during the First Session of this Parliament.

Late last year, the Commons Standing Committee on Justice and Human Rights reported Bill C-202 with certain amendments, and it was adopted unanimously in the House of Commons on February 7, 2000. I should mention that the Commons Standing Committee on Justice and Human Rights had also identified the police chase issue as a matter deserving further consideration in its twenty-first report, entitled, "Toward Eliminating Impaired Driving," which was tabled in the House on May 25, 1999.

Policing organizations such as the Canadian Police Association, the Canadian Association of Chiefs of Police, and La Fédération des policiers et policières du Québec have publicly supported Bill C-202. The police community is very supportive of the progress represented by Bill C-202. The risks created by motorists who flee from police present an intolerable situation. The danger of death and injury for members of the public, the police and the fleeing motorist are very real.

On the one hand, the police feel public pressure to pursue and apprehend fleeing motorists, who often are running from a theft or committing an impaired driving offence. On the other hand, there is pressure from some who would prefer that the police not engage in any pursuits at all, thereby avoiding collisions. We can thus see that the police are under enormous pressure when deciding whether to pursue a motorist who refuses to stop, and if they choose to pursue, they are faced with the continuing decision of whether the danger has increased to the point where the pursuit must be discontinued.

Honourable senators, we know that the police do not take these decisions lightly. Often the police must make these decisions instantaneously, without the benefit of hindsight. I do not believe that we should restrict the police by telling them they must never give chase. The purpose of this bill is not to tell them that they must, at any price, capture a culprit, but to put the accountability where it should be. Accountability must be placed squarely upon those individuals who flee the police and engage the police in motor vehicle pursuits.

The member for Pickering—Ajax—Uxbridge made motions for helpful changes to Bill C-202 when sitting with the Commons Standing Committee on Justice and Human Rights during its clause-by-clause review of the bill. As amended, Bill C-202 will add a new offence to the Criminal Code for a motorist who fails to stop for police or in order to evade police. This new offence will immediately follow section 249, the dangerous driving provision. It will include certain situations that might not amount to dangerous driving. For example, there are situations where a fleeing motorist is speeding on a flat, straight stretch of highway in an effort to evade police, and the Crown prosecutor is not able to show that the driving conduct meets the test for dangerous driving. Under Bill C-202, the failure to stop would be a criminal offence.

Originally, Bill C-202 would have created a straight indictable offence for fleeing the police, punishable by two years' imprisonment. As with dangerous driving and impaired driving offences, the new offence of flight from police will now be one for which the Crown prosecutor may elect to proceed by indictment or by summary conviction. This gives the Crown the flexibility to proceed more expeditiously where the factual circumstances and the offender's criminal record are less serious. The maximum penalty on summary conviction would be six months' imprisonment. On indictment, the maximum penalty would be five years' imprisonment. These are the same maximum penalties that exist for dangerous driving and impaired driving offences.

Honourable senators, dangerous driving already attracts severe maximum penalties. Dangerous driving that causes bodily harm or death is punishable by 10 years' or 14 years' imprisonment respectively. Bill C-202 makes it clear that such dangerous driving which also involves fleeing the police is even more serious. Where a fleeing motorist causes death by dangerous driving, the maximum penalty will be life imprisonment. Where a fleeing motorist causes bodily harm by dangerous driving, the maximum penalty would be 14 years' imprisonment. These maximum penalties would be reserved for the worst factual circumstances and the worst offenders. These maximum penalties also signal that offences involving flight from police where death or injury is caused by dangerous driving should carry a stiffer penalty than the same set of circumstances causing death or injury in which no flight from police is involved.

In conclusion, honourable senators, Bill C-202 tells motorists that they must not engage police in motor vehicle pursuits. If they kill or injure someone while driving dangerously in flight from police pursuit, the available penalties will be severe. The bottom line is that there be a separate criminal law offence for motor vehicle flight from police. The message to would-be offenders is simple: Stop for the police or be ready to face the consequences. I ask all honourable senators to give their support to Bill C-202.

On motion of Senator Kinsella, for Senator Ghitter, debate adjourned.

[Translation]

CENSUS RECORDS

PETITIONS ACCEPTED

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, it has been drawn to my attention that the petitions presented in the Senate earlier today were not entirely signed by Canadian citizens. I would like to quote citation 1035.(3) of *Beauchesne's Parliamentary Rules & Forms*, which states:

[English]

1035.(3) A petition signed by both Canadian citizens and foreigners has been received by the House with unanimous consent.

[Translation]

Honourable senators, is it your pleasure to consent to the tabling of these petitions as presented by Senator Milne during Presentation of Petitions?

[English]

Hon. Lorna Milne: Honourable senators, I ask for unanimous consent to present this petition, which contains a number of signatures. A small minority of them come from the United States and from Great Britain, as I mentioned when I presented the petition. The petition is in favour of the release of census records after 1901.

According to Beauchesne, the Honourable the Acting Speaker is quite correct in that I should have asked for unanimous consent to present this petition. I ask for unanimous consent now. If not granted, I will withdraw the petition and then present the vast majority of the names, which are Canadian, tomorrow.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): On behalf of honourable senators on this side of the house, we are pleased to grant our consent to the presentation of this petition in the manner in which it has been presented, in part based upon the principle expressed in the Canadian Charter of Rights and Freedoms. As honourable senators know, we recognize those rights and freedoms to be predicated on behalf of everyone, save and except only three rights — the right to leave Canada and return to Canada, which is limited to Canadian citizens; the right to vote, which is limited to Canadian citizens; and the right to certain minority education rights, which is limited to Canadian citizens. All the other rights that we recognize, however, are predicated on behalf of everyone. A petition of this sort, notwithstanding what is contained in Beauchesne, is based upon that principle. That is why we are happy to grant our consent.

Hon. Anne C. Cools: Honourable senators, I, too, am prepared to give agreement to Senator Milne in this particular instance. However, this is one of those questions on which we should seek clarity at some particular point in time. Unfortunately, I did not hear the earlier presentation of the petition, but I did hear what Senator Kinsella just said. I understand and I agree with the concept that rights are broadly endowed. I am not convinced totally, however, that citizens of the United States of America or any other foreign country have a right to petition the Parliament of Canada. Nevertheless, to the extent that Senator Milne has done a lot of work, I am prepared and quite happy to give her my consent in this instance.

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to accept the petitions?

Hon. Senators: Agreed.

EUROPEAN MONETARY UNION

REPORT OF FOREIGN AFFAIRS COMMITTEE
ON STUDY—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Foreign Affairs entitled: "Europe Revisited: Consequences of Increased European Integration For Canada", tabled in the Senate on November 17, 1999.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I should like to say a few words about our report that was tabled in November, entitled "Europe Revisited: Consequences of Increased European Integration For Canada."

Honourable senators, in putting together a few words for today, I carefully went through the report again. I wish to point out that on page 25 of the report we have an error in a section about "dollarization". Somehow we have inadvertently included Mexico with Argentina. That is not correct. I was a bit surprised at that error myself.

The Foreign Affairs Committee has had a long interest in international economic developments dating back to the 1980s and the original Free Trade Agreement, then to NAFTA and on to the European Union in the 1970s. Our committee has spent a great deal of time on international economic developments because many of the decisions being made on behalf of Canadian citizens increasingly are being made by international organizations, to such a degree that some Canadians people in other countries feel they do not have much input.

Our committee has made it a habit to look at these subjects — that is, international economic developments. This report on the European Union follows work that we did in 1995 and 1996, during which our committee travelled to Europe and had an interesting schedule of meetings which contributed greatly to the excellence of this report.

Basically, this report addresses itself to two subjects: the European Monetary Union and the reform of the European Union. Anyone interested in these very important subjects will find our report most useful.

I should like to take a moment this afternoon to give honourable senators a few statistics that I think are forgotten by Canadians but are nonetheless very important.

Many people say that our profile in Europe and in the European Union is not as high as it should be. Before I address that point, I should like to give honourable senators population figures that are important for countries in the European Union and for Canada.

The Canada in which I was born had a population of 13 million people. Canada's population now stands at 31 million and is expanding rapidly. It is fair to say that it will not be long before we will have the same population as Spain, which is 40 million. Poland, an active candidate for membership into the European Union, has a population of 38 million. Canada's population, at this point, is greater than the Benelux — that is, Holland, Belgium and Luxembourg.

When we talk in terms of international trade and of Ireland, for example, Ireland has a population of 3.5 million people. It is a very small country.

● (1600)

You must look at those population figures to understand the importance of the fact that the European Union is now the largest single market in the world. Many people believe that in terms of trade Canada has not been doing as well as it should in the largest market in the world.

When our committee was in Europe, we were told by Mr. John Beck, who I believe is the Director of the International Affairs Directorate of the European Union, that Canada only represents 1.7 per cent of European trade, in contrast to the U.S. share of over 20 per cent. This is a very important statistic. Taking population alone, the United States is a little more than eight times as large as us. Therefore, if it followed a logical progression, our trade in Europe should be around 2.5 or 3 per cent. For that reason, there is something wrong.

Honourable senators, 8 to 9 per cent of Canadian trade is with the European Union. I heard it said the other day that one of the problems in Canada is that we are basically exporters of primary products — forestry and mining products, et cetera. However, 50 to 75 per cent of our exports are in manufactured goods, increasingly in goods such as commuter airplanes. Our exports to Europe are of a highly technical nature. Therefore, it is not true that we have problems in Europe because we are only a producer of certain kinds of raw materials.

It is also important that Canadians understand that we are a huge exporter of capital to Europe. One of the great Canadian success stories in international commerce is in the capital import and export market. Our European investments have risen 230 per cent in the last 10 years. It is an interesting fact that the United States has about \$150 billion of investment in Canada. European Union countries have about \$50 billion of investment in Canada — or about one third of that of the U.S. — and Canadian investment in the European Union is about \$50 billion, a very large amount. That is one of our great success stories, and our investments are rising at a more rapid rate than investment in Europe from the United States.

That also makes me wonder why only 1.7 per cent of European trade is with Canada in contrast to over 20 per cent with the United States. Canada should be much more aggressive in dealing with the European Union in some of these matters.

I want only to point out the importance of our report, which deals with the European Monetary Union. We are skeptical about the European Monetary Union. Our witnesses were skeptical, not that it has not taken place, because it has taken place, but, as senators know, there are people in Canada who think, because the European Monetary Union is such a success — in quotes — that Canada should enter into a monetary union with the United States. That has not been the conclusion of our committee, and you would have to read the report to find out why. I will not take up the time of senators with that this afternoon. However, it is important to understand the difficulties faced by the long-term success of the European Monetary Union without a central European government.

The second part of our report deals with the problems of reforming the European Union and the conflicting pressures, which are of great importance to this country. We in Canada know perfectly well the pressures between a national government and the regions. That has been the history of our country. The Europeans have absolutely no experience with that.

As you know, there is the famous European Parliament. As well, there are the governments of the member states. Do honourable senators think that it would be easy for the Prime Minister of Great Britain, the Prime Minister of France or the German Chancellor to allow the European Parliament to take their power from them? The experience in Canada in that department has certainly been the opposite.

In my opinion, they had not realized this. I believe that the success of the euro depends on a central-government structure that can deal with tax incentives for the varying regions for which it is the currency. The economic circumstances in Spain are different than those in Germany; those in Ireland are different than those in Italy, et cetera.

By the way, the whole purpose of the euro and the European Union was a political one. Senator Bolduc and I attended many meetings where it was explained that it was not an economic issue so much as a political one, that it was believed that having the same money would force you to have some kind of a central government, that it would go hand in hand, that it would force the hands of national governments toward a central government. In fact, the opposite has taken place.

In many countries, although not every country, only approximately 20 to 22 per cent of the electorate bother voting for the European Parliament. The European Parliament has lost credibility. People feel distant from the central structures in Brussels. In fact, as you know, the Maastricht Treaty in France passed by about .2 per cent in the referendum. The British dare not hold a referendum about the European Monetary Union because they know it will not pass.

There has, in fact, been a drawing back from a national government in Europe over the last six months to a year. The national governments are taking more and more away from the

Brussels system. I do not know where that will lead, honourable senators, but it is important that we in Canada monitor this. It is essential that we monitor the attempts for enlarging the European structure, because we must consider how difficult it will be to make decisions when Poland, the Czech Republic and other countries that have a very rural base are brought in.

• (1610)

How will they pay for the agricultural subsidies? Will that be of benefit to Canada? Agricultural subsidies to European farmers are making it difficult for Canadian farmers to sell their goods to third-party customers. Heavily subsidized European agricultural exports are competing with less-subsidized Canadian agricultural exports. This is a big problem for us.

I recommend the report to the Senate, and I hope honourable senators have enough interest to follow these issues because they are very important to the standard of living of Canadians. The Foreign Affairs Committee of the Senate will be continuing its study of these very important matters.

[Translation]

Hon. Roch Bolduc: Honourable senators, would Senator Stollery answer a question?

Senator Stollery: Yes.

The Hon. the Acting Speaker: Honourable senators, the time set aside for debate on this item on the Orders of the Day is now up. Is leave granted to continue?

Hon. Senators: Agreed.

Senator Bolduc: Senator Stollery intimated that he was rather pessimistic about the future of the European Union. Does the basic change that is happening not arise, rather, from the fact that the European governments have realized that the European Union could not be governed by a bureaucracy in Brussels, but rather by the governments of the countries in question? This strikes me as very healthy and represents progress of a sort. These governments were democratically elected.

Senator Stollery: Honourable senators, the idea that national governments have greater political powers is a good one. How will this affect the financial system? In our report, we point out that the monetary system is based on a national government. How will these 16 countries facing widely varied economic circumstances and deciding on the value of money, taxes and so on, harmonize this system? I see contradiction in this. It is not because I am a pessimist. I know very well that the debate among regional governments and the federal government has functioned with difficulty in Canada. I see more contradiction than scepticism perhaps.

On motion of Senator Andreychuk, debate adjourned.

[English]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Energy, the Environment and Natural Resources (power to hire staff and to travel) presented in the Senate on December 15, 1999.—(*Honourable Senator Spivak*).

Hon. Mira Spivak moved the adoption of the report.

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Charlie Watt: Honourable senators, bear with me for one moment, please.

Hon. Noël Kinsella (Deputy Leader of the Opposition): Honourable senators, to which item on the Order Paper are we speaking?

[Translation]

The Hon. the Acting Speaker: Honourable senators, I draw to your attention the fact that Senator Watt sought leave to have this report considered later today. Leave was granted.

Senator Kinsella: Honourable senators, Item No. 5 on the Orders of the Day, under Reports of Committees, was called.

Hon. Eymard G. Corbin: He said Number 4.

[English]

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in asking leave for Senator Watt to address his committee's report later this day, I did have discussions with my counterpart, Senator Kinsella. My understanding was that this item would go to the end of Reports of Committees on the Order Paper.

Senator Kinsella: No, it was to go to the end of the day.

Senator Hays: I misunderstood, then. In that we have only two orders left to deal with between now and the end of the day, one of which is Senator Lynch-Staunton's motion, perhaps I should reflect on the misunderstanding. If Senator Lynch-Staunton wishes to proceed, we could go directly to that item.

[Translation]

The Hon. the Acting Speaker: Honourable senators, I am in your hands. Should I give the floor to the Honourable Senator Watt?

[English]

Senator Kinsella: Honourable senators, on my scroll, the next item is Motion No. 5 under the rubric "Other". It is the motion of Senator Spivak, seconded by Senator Andreychuk, concerning the Energy Committee. It is adjourned in the name of Senator Taylor. That is where we are on today's scroll.

Senator Hays: That is correct. The explanation of why the order was called is that I spoke to the clerk on the basis of my misunderstanding of the agreement with my counterpart that consent was given for us to revert to the order on this day. In the normal course, this report would not be up for debate until tomorrow. My understanding was that the item was to go to the end of Reports of Committees on the Order Paper, and Senator Kinsella's understanding was that it go to the end of the Order Paper, period.

I am prepared to concede that I misunderstood. To remedy the situation, I am indicating to all honourable senators, with the agreement of Senator Watt, that he will speak on his committee's report as the last item before I revert to Government Notices of Motions to deal with the adjournment motion.

Accordingly, it would be in order to proceed with the scroll as printed, not as I suggested to the clerk.

The Hon. the Acting Speaker: Honourable senators, is it agreed that we proceed in this manner?

Hon. Senators: Agreed.

[Translation]

• (1620)

FRANCOPHONE AND ACADIAN COMMUNITIES OUTSIDE QUEBEC

DETERIORATION OF SERVICES—INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Simard calling the attention of the Senate to the situation vis-à-vis the development and vitality of francophone and Acadian communities, its gradual deterioration, the growing indifference of governments in Canada over the past ten years, and the lack of access to services in French.—(*Honourable Senator Kinsella*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on November 16, the Honourable Jean-Maurice Simard called the attention of the Senate to the current situation vis-à-vis the development and vitality of francophone and Acadian communities, its gradual deterioration, the growing indifference of governments over the past ten years, and the lack of access to services in French. Today, I wish to speak in support of that inquiry by my colleague the Honourable Senator Simard.

That inquiry followed the tabling by Senator Simard, in November, of a report that was very critical of the role played by federal and provincial governments regarding the increasingly precarious situation in which francophone minorities outside Quebec find themselves. The tabling of that very detailed study was the fulfilment of a commitment made by Senator Simard in June. At the time, he had called the attention of the Senate to the deterioration of services in French to Canada's francophone and Acadian communities.

Honourable senators, the report is entitled "Bridging the Gap: From Oblivion to the Rule of The Law." It deals with the increasing difficulties to which francophone and Acadian communities are confronted in terms of access to services in their language. The report clearly states that if francophone and Acadian communities in several provinces have managed to make significant gains in terms of having their rights respected, it is because of their perceptiveness, not because of the initiatives taken by the federal and provincial governments to improve their situation.

Honourable senators, according to the report, these gains, particularly with respect to the management of French schools and of certain community services remain extremely uncertain. On the strength of their victory, francophones dared to hope that their governments would maintain those gains. Unfortunately, they have had to think again in recent years.

French Canadians have not been able to obtain the fair levels of services and infrastructures necessary to their development. In addition, they have been unable to have existing rights enshrined in the Constitution. In a number of provinces, they have felt the effects of budget cuts and anti-deficit measures. I am thinking of the case of the Montfort Hospital in Ottawa, which received very extensive media coverage.

Honourable senators, deficit reduction efforts did not spare my province. In recent years, we have seen the school management system in New Brunswick dismantled. Let us remember that, in March 1996, the Government of New Brunswick replaced all the French-language and English-language school boards with a new three-tiered structure: parent advisory committees in the schools, school district committees, and two provincial boards, one francophone and one anglophone. Since the parent committees and the provincial board had greater decision-making authority, primary powers were concentrated in the hands of Cabinet.

The president of New Brunswick's parent committees, Claude Nadeau, felt that the new school legislation denied francophones the right to exercise control over the management of their own schools. The new participation structure did not allow Acadians to fully exercise this right. Faced with this situation, New Brunswick's parent committees decided to take the provincial government to court in order to have their rights respected.

Fortunately, the new government of Premier Bernard Lord promised to review this policy in the last election. However, the parents have decided to continue their legal proceedings until

they see concrete results from the electoral promises. In this regard, the Association des juristes d'expression française in New Brunswick considered recently that, despite the existence of the Official Languages of New Brunswick Act and Bill 88 on homogenous schools and duality in education, the provincial government has only partly acted on its promise to apply them fully in recent years.

We must not forget, honourable senators, that the French school must be the ultimate source of a French identity and French education and culture for Canada's francophone and Acadian youth of today.

The report by Senator Simard contains over 43 recommendations dealing with all aspects of the life of francophones outside Quebec. They received the support of the new Commissioner of Official Languages, Dyane Adam, and of the President of the Fédération des communautés francophones et acadienne, Gino Leblanc. The recommendations are, for the most part, directed at the federal and provincial governments. Their aim, first of all, is to improve the living conditions of francophones outside Quebec. Their aim, subsequently, is to consolidate respect for the language rights and constitutional guarantees with regard to government and community services and to the educational system under sections 16, 17 and 23 of the Constitution Act, 1982. Finally, their aim is to set up the policies that, beyond the Canadian Charter of Rights and Freedoms and the Official Languages Act, will ensure that francophones and Acadians truly have equality with English Canadians.

The report proposes the establishment of official bilingualism in all provinces, the creation of a position of Minister of State for the Development of Official Language Communities and the creation of a trust fund of \$500 million for the development of francophone and Acadian communities.

Honourable senators, I believe that the Parliament of Canada must give careful consideration to the recommendations of this important report by Senator Simard, in the context of the new realities faced by francophone and Acadian communities in Canada.

The Hon. the Speaker: Honourable senators, if no other senator wishes to speak on this inquiry, the inquiry is debated.

[English]

● (1630)

NATIONAL DEFENCE

MOTION TO ESTABLISH SPECIAL SENATE COMMITTEE
TO EXAMINE CONDUCT OF PERSONNEL IN RELATION TO THE
SOMALIA DEPLOYMENT AND THE DESTRUCTION OF MEDICAL
RECORDS OF PERSONNEL SERVING IN CROATIA

Hon. John Lynch-Staunton (Leader of the Opposition),
pursuant to notice of November 2, 1999, moved:

That a Special Committee of the Senate be appointed to examine and report on two significant matters which involve the conduct of chain of command of the Canadian Forces, both in-theatre and at National Defence Headquarters and its response to operational, decision making and administrative problems encountered during the Somalia deployment to the extent that these matters have not been examined by the Commission of Inquiry into the Deployment of Canadian Forces to Somalia and allegations that Canadian soldiers were exposed to toxic substances in Croatia between 1993 and 1995, and the alleged destruction of medical records of personnel serving in Croatia;

That the Committee in examining these issues may call witnesses from whom it believes it may obtain evidence relevant to these matters including but not limited to:

1. The present Minister of Defence in relation to both matters;
2. Former Ministers of National Defence in relation to both matters;
3. The then Deputy Minister of National Defence in relation to both matters;
4. The then Acting Chief of Staff of the Minister of National Defence in relation to the Somalia occurrence;
5. The then special advisor to the Minister of National Defence (M. Campbell) in relation to the Somalia occurrence;
6. The then special advisor to the Minister of National Defence (J. Dixon) in relation to the Somalia occurrence;
7. The persons occupying the position of Judge Advocate General during the relevant period in relation to the Somalia occurrence;
8. The then Deputy Judge Advocate General (litigation) in relation to the Somalia occurrence; and
9. The then Chief of Defence Staff and Deputy Chief of Defence Staff in relation to both occurrences.

That seven Senators, nominated by the Committee of Selection act as members of the Special Committee, and that three members constitute a quorum;

That the Committee have power to send for persons, papers and records, to examine witnesses under oath, to report from time to time and to print such papers and

evidence from day to day as may be ordered by the Committee;

That the Committee have power to authorize television and radio broadcasting, as it deems appropriate, of any or all of its proceedings;

That the Committee have the power to engage the services of such counsel and other professional, technical, clerical and other personnel as may be necessary for the purposes of its examination;

That the political parties represented on the Special Committee be granted allocations for expert assistance with the work of the Committee;

That it be empowered to adjourn from place to place within and outside Canada;

That the Committee have the power to sit during sittings and adjournments of the Senate;

That the Committee submit its report not later than one year from the date of it being constituted, provided that, if the Senate is not sitting, the report will be deemed submitted on the day such report is deposited with the Clerk of the Senate.

He said: Honourable senators, this motion closely resembles one that was first debated and approved in March 1997, nearly three years ago, the only significant difference being a reference to events related to Croatia. The June 1997 election call, conveniently for the government, anyway, disposed of it, and an attempt to have the Senate reconfirm its decision in the fall of 1997 failed.

The Senate has before it a motion which, if approved, will set aside any partisanship and return to the positive decision it took almost three years ago. If denied, the Senate will, wittingly or not, ally itself with those who maintain that cover-up and ignorance are better substitutes than revelation and truth. It is as simple as that.

A brief summary of what prompts the main thrust of this motion is in order. In March 1995, the government announced the setting up of a commission of inquiry into the deployment of Canadian Forces to Somalia with a broad mandate to look into and report upon certain events in Somalia involving the participation of civilian and military members of the Department of Defence. The commission was never allowed to complete its mandate. As it was about to begin its study of the post-deployment phase, the then minister of defence, in January 1997, in an unprecedented and disgraceful gesture, ordered the commission to terminate its hearings by the end of March and submit its report no later than June 1997. This led to the following comment by the members of the commission, which can be found in Volume 1 of its report. They were:

...directed to report on all paragraphs of our original terms of reference pertaining to the pre-deployment phase of the deployment of Canadian forces to Somalia. On all other matters, we were given discretion concerning the extent to which we would inquire and report within the imposed June 30, 1997 time frame...

This report ... now addresses, in some sense, every paragraph of our original terms of reference. However, we have not been able to explore several important matters (notably, the March 16th torture death of Shidane Arone, the response of the upper echelons at National Defence Headquarters to the events of March 4th and March 16th, 1993, and allegations of high-level cover-up pertaining to those events) because of the curtailment of our mandate.

The decision to impose time constraints of the kind that have been forced upon us is without precedent in any previous Canadian inquiry of this magnitude. It has compromised our search for the truth. It will also inhibit or delay corrective actions to the system that allowed these events to occur in the first place.

The careful search for truth can be painstaking and, at times, frustrating. Public inquiries are equipped with the best tools our legal system can furnish for pursuing the truth, but even with access to significant procedural powers, the goal may prove elusive.

As a result, the reputations of countless Canadians have been irreparably harmed, including those of very senior political, civilian, and military figures who would welcome the opportunity to publicly explain their participation in events into which the commission was forbidden to look. The purpose of this motion is not to cause embarrassment; it is to clear the air. Certainly, mistakes were made, but it is not by ignoring or denying them that they can be avoided in the future. Only by a public inquiry can this be done.

Contrast this refusal to seek out the truth to what is happening in other countries. I have given many similar examples in the past. The following are more recent and not given in any particular order of importance but only to indicate that truth, no matter how embarrassing or even sordid, must be known, dealt with and learned from. This is essential for any society with a minimum of self-respect and sense of morality towards its members and itself.

The Government of Ireland has begun a new investigation into car bombings in Dublin and in the town of Monaghan that took place over 25 years ago and killed 33 people and wounded over 300 in one single day. Inquiries in the 1970s and 1980s were inconclusive, and no one has been charged to date.

Last December, a UN-sponsored report, commissioned by Secretary-General Kofi Annan himself, held that the United Nations and some of its leading members were responsible for failing to prevent or end the genocide in Rwanda in 1994. Mr. Annan was head of UN peacekeeping operations at the time.

An all-party committee in Germany, including members of the Christian Democratic Union, is investigating allegations of illegal campaign contributions and kickbacks by a number of leading German politicians, including former chancellor Helmut Kohl, long-time head of the CDU.

The United States government is investigating reports that American troops machine-gunned, under orders, hundreds of South Korean refugees during the early days of the Korean War, a half century before. This is despite the fact that only three years ago, the official government position was that there was not any evidence that the troops implicated were even in the area at the time.

After decades of dismissing the hazards of radiation and chemicals, the United States government, only three weeks ago, finally conceded that radiation exposure led to higher than normal rates of cancer and early death.

The Attorney General of the United States and the Director of the Federal Bureau of Investigation have ordered an independent inquiry into the use of military gas canisters at the Branch Davidian compound in Waco, Texas, in April 1993, which caught fire and resulted in 76 deaths.

Last weekend, the President of Israel was questioned for a second time by the police over allegations of tax fraud and corruption said to have occurred between 1988 and 1993.

In Canada, when embarrassing news and allegations of this sort appear, the usual practice is to indulge in denial or private self-examination or both, with the hope that time and stonewalling will lay any controversy to rest.

I wish to quote from an editorial in the December 18, 1999 *Economist* commenting on a Swiss Parliament-sponsored independent commission report on certain activities in Switzerland during World War II. The editorial reads:

The Swiss did not embark on this self-examination entirely voluntarily. Much of the impetus came from the unyielding pressure of Jewish groups which, over the years, refused to take No for an answer from the Swiss banks. The banks, in turn, hid behind secrecy laws. It is also true that until quite recently the Swiss government itself handled the clamour to investigate the various charges clumsily and insensitively.

Nonetheless, that this exercise has taken place at all is ground for some Swiss credit. Many other countries have passed through inglorious episodes this century and, even after prodding, have chosen not to look back with such thoroughness. It was only in 1995, after all, that President Jacques Chirac acknowledged for the first time the French state's responsibility for the Vichy regime, and even now the official French effort at digging up that bit of history is barely half-complete. Indeed Germany itself, admirably open though it has long been about its past, only this week reached a deal for compensation of wartime slave labourers. With mixed motives, no doubt, Switzerland is now confronting its past. To do so is far from easy.

I also want to pay tribute to a man whose death recently at the age of 44 passed largely unnoticed — Major Vincent Buonamici, a brave and courageous Canadian. His obituary in the *National Post* is worth being part of our record:

Major Vincent Buonamici, who has died aged 44, was the military police officer who broke the Somalia scandal wide open. Without concern for his career prospects, Maj. Buonamici conducted a full investigation of the incident in March, 1993, when soldiers of the now disbanded Canadian Airborne Regiment captured a Somalia teenager, torturing and killing him.

The Airborne Regiment was in Somalia as part of a humanitarian mission to bring aid to people during the chaos of the civil war there. Major Buonamici directed the investigation of that incident and an earlier one involving a shooting outside the Canadian base in Somalia. He alleged there was interference with his investigation at the highest levels in the military and the government.

Interference included the seizure of files from Major Buonamici's office at National Defence headquarters in Ottawa. He had to install special "anti-intrusion" locks on his filing cabinet to protect his records from senior military officers. He had a promotion blocked and was himself investigated by other military police officers checking to see if he had leaked information to the media.

The Minister of Defence, David Collenette, and the Prime Minister denounced the allegations at the time. However, four years later, a public inquiry into the killings agreed with Major Buonamici, saying there was indeed a military cover-up of the details of what came to be known as the Somalia Affair.

Major Buonamici's honest investigation into the Somalia Affair, and his refusal to cave in to pressure from his superiors, stalled his military career. He was never bitter, and never held a grudge against the military.

• (1640)

To the credit of the Armed Forces, the obituary concludes:

The military recognized his courage and devotion to duty and he was given a full military funeral in Hamilton.

What this motion wants confirmed is transparency and accountability — not cover-up and denial. A refusal to inquire publicly into the post-deployment phase of the Somalia mission will not only leave many questions unanswered but, equally important, many innocent reputations tarnished forever. If only

for the sake of those Canadians, civilian and military, an inquiry is more than justified.

The Defence Department's unwillingness to air its problems and grandly assure Canadians that private self-examination is the ideal solution is nothing short of deplorable. Whatever the charges — the keeping of confiscated Serb weapons in Croatia, the smuggling for cash of refugees in Bosnia, the suicide of an Airborne Regiment member in Rwanda, possibly induced by the anti-malaria drug mefloquine, exposure to toxic soil in Croatia, the shredding of a key document in medical files, to name but a few, and the latter two subject to this motion — the department's initial reaction has been to dismiss them or to subject them to internal investigation, which amounts to about the same.

On a related matter, the enthusiasm over the naming of an ombudsman in the Defence Department soon turned to frustration as his terms of reference in effect give him as much independence and authority as has the Ethics Counsellor.

The saddest example of departmental self-denial arises from the death of Joseph Riordan, who served as a Canadian Forces military policeman in the 1991 Gulf War and suffered from what is known as Persian Gulf War syndrome, possibly caused by depleted uranium. Over the years, the Defence Department repeatedly denied any linkage between depleted uranium and similar illnesses suffered by some, at least 100, if not more, known victims. Mr. Riordan directed that his body be subjected to an autopsy. A week ago, *The Globe and Mail* reported the results as follows:

Asaph Durokavic, an expert on Persian Gulf war syndrome and a former research scientist with the U.S. Department of Veterans Affairs, told CBC Radio yesterday that he did not anticipate finding such high levels of uranium isotopes in Mr. Riordan's bones nearly a full decade after the war. Dr. Durokavic has also documented traces of uranium in the urine of living veterans. The new findings are expected to fuel the controversial argument that depleted uranium — used as a coating to harden weapons and tanks — is the cause of the mysterious illnesses that have beset veterans of both the gulf war and the conflict in Croatia.

After years of denial, what was the reaction of the Minister of National Defence? According to *The Globe and Mail* — and I say with this without comment:

— Defence Minister Art Eggleton said that Gulf War veterans who fear that exposure to depleted uranium dust might have made them sick should contact the federal government to arrange for medical tests.

It may be felt that a special committee is not necessary and that an inquiry by a standing committee will suffice. If such is the agreement, I certainly raise no objections. As a matter of fact, the Senate committee structure is already stretched to the near breaking point, burdened as it is with a too-compressed schedule, shortage of financial resources, and too many clerks doing double duty. It is without much enthusiasm that the method of inquiry is proposed.

However, this is mere detail compared with what is at stake. What the Senate must decide is whether it will agree to look into a subject matter with the intention of giving innocent Canadians an opportunity to lift the suspicions and answer the derogatory allegations to which they have been subject for far too long or accept the notion that this is all in the past, that there is no need to revisit anything the least unpleasant, that the Defence Department alone can bring whatever corrections are necessary to avoid repetition, et cetera. Past and present experience certainly does not support the latter argument; however, parliamentary responsibility more than justifies support for this motion.

Hon. John G. Bryden: Honourable senators, might the Honourable Senator Lynch-Staunton entertain a question?

Senator Lynch-Staunton: Of course, honourable senators.

Senator Bryden: From listening to what the honourable senator has said, the way the inquiry has been framed in the honourable senator's motion is very broad and far-ranging, not only in terms of time but also in the types of things to which the honourable senator has referred.

Motion No. 7 states, in part:

That a Special Committee of the Senate be appointed to examine and report on two significant matters —

With all due respect to Senator Lynch-Staunton, I cannot determine from reading the motion what are the two significant matters upon which a special committee of the Senate would examine and report upon. Several matters are listed in the motion. Again, it states, in part:

— report on two significant matters which involve the conduct of —

It runs on from there and talks about decision making and administrative problems. At the end of the motion, it is stated:

— and allegations that Canadian soldiers were exposed to toxic substances in Croatia between 1993 and 1995, and the alleged destruction of medical records of personnel serving in Croatia;

When the honourable senator refers to two significant matters, the only two significant matters that are identified are that the Senate would examine and report on allegations "that Canadian soldiers were exposed to toxic substances in Croatia between 1993 and 1995 and the alleged destruction of medical records of personnel serving in Croatia." Are those the two significant matters upon which the honourable senator wants the Senate to examine and report upon?

Senator Lynch-Staunton: Honourable senators, I agree with Senator Bryden that the wording of the motion could be improved. The two matters are the post-deployment phase in Somalia and the alleged exposure to toxic substances and the known destruction of a medical record in the files of certain personnel in Croatia. I agree that the wording leads to some confusion.

The reason that Croatia was added to the motion was to emphasize the fact that, while the two matters may not be directly related, they have been swept under the rug by the Defence Department and the government. We do not really know anything about these matters. All we know is that the Armed Forces and the Defence Department are looking into it, but they are looking into it more or less privately.

In our society today, we have a right not only to know the results but to know how the results are arrived at. Parliament should be a participant in the events leading to the results.

This motion intends to have the Senate of Canada be involved in a very important exercise, which is to get at the truth and to clear the air, as I said in my formal presentation. It is to help those Canadians, some of whom we know. They were willing to appear before our committee, as Senator Bryden will recall, in the spring of 1997. They were already lined up to appear as witnesses. I cannot believe that if they were willing to testify at that time that they would not be more willing to appear before a committee now, three years later, and finally be given a chance to give their side of the story.

Senator Bryden: Honourable senators, even as a result of the honourable senator's comments concerning the expanded scope of what he has contemplated, has the honourable senator given any consideration to allowing this matter to die? Has the honourable senator given any consideration to reformulating what it is he is proposing be examined and reported upon, in light of today and in light of what he has said in his very interesting speech?

• (1650)

Senator Lynch-Staunton: Honourable senators, if everyone has an understanding of the intent of the motion, then why would it be necessary to change the wording? It is my hope that we can come to a decision on this matter as soon as possible, one way or the other. This has been before the Senate for nearly three years. I do not intend to prolong the matter. I was hoping to speak to it earlier. I hope other senators will also speak to the issue.

I believe the intent is clear. Again, I agree that the wording could be improved. I may have done it too hastily — and I apologize for any confusion that that may have caused — but I would hope that my explanation, both in the formal text and in the question and answer period, has cleared up what some of us would like to see done.

On motion of Senator Bryden, debate adjourned.

ABORIGINAL GOVERNANCE

REPORT OF COMMITTEE ON STUDY—DEBATE ADJOURNED

Leave having been given to revert to Reports of Committees:

The Senate proceeded to consideration of the Third Report of the Standing Senate Committee on Aboriginal Peoples entitled "Forging New Relationships: Aboriginal Governance in Canada," tabled in the Senate earlier this day.

Hon. Charlie Watt: Honourable senators, this is an interesting time and an interesting place.

In the fall of 1998, the Standing Senate Committee on Aboriginal Peoples began its hearings on aboriginal self-government. With the assistance of its aboriginal advisers, whom I would like to thank, namely, Rosemarie Kuptana, Konrad Sioui and Larry Chartrand, the steering committee was able to target key witnesses, hearing from over 100 witnesses, primarily aboriginal people.

I am also extremely grateful to all members of the committee, particularly my colleagues on the steering committee. I extend my sincere thanks as well to Alex Ker, to the clerk of the committee, Ms Jill Anne Joseph, and to Kae Schade.

The summer adjournment and the fall prorogation unfortunately delayed this report. However, it gave the committee an opportunity to deliberate carefully on what it had heard and to evaluate testimony in the light of other recent studies. The adjournment enabled us to incorporate the invaluable experience and knowledge of each of our committee members and to reach consensus on what measures we were prepared to recommend.

The order of reference for the special study on governance called upon the committee to concentrate on key aspects of governance and a new relationship between Canada and aboriginal peoples. The committee was asked to address fundamental principles of this relationship and to consider negotiations and implementations issues and processes. The committee therefore considered practical measures to assist aboriginal peoples and their government partners in establishing, implementing and conducting new relationships.

Based on the evidence received, the committee concluded that development of new and renewed relations, based on the partnership with the aboriginal people, requires fundamental legislative and institutional reforms. We recognize that restructuring relationships is both a complex and urgent challenge.

The recommendations contained in our report focus on four aspects of our structural relationships that were addressed by our witnesses. First, witnesses drew our attention to the fact that section 35 of the Constitutional Act, 1982, identified the Indian,

Inuit and the Métis people as aboriginal peoples of Canada. However, those peoples do not enjoy equal access to the opportunity to negotiate and implement aboriginal self-government and relationships with Canada. To address this concern, the committee adopted broad recommendations calling on the Government of Canada to provide more equitable opportunities for aboriginal peoples to realize their aspirations for self-government. We recommend that the government adopt a more flexible and inclusive approach in engaging First Nations, Inuit and Métis people in self-government negotiations. The committee further recommends that negotiation and implementation processes be made available to all aboriginal people on a basis that takes their respective interests and claims into account.

Second, witnesses spoke to us of incompatibility between the government objectives for relationships of partnership with aboriginal peoples and the allocation of negotiation responsibilities within the Department of Indian Affairs and Northern Development.

In this regard, we recommend the removal of responsibilities for the negotiation and implementation of treaty, self-government, and related agreements from the Department of Indian Affairs. The committee recommends that those responsibilities be vested in a new office of aboriginal relations, which we believe should be established within the Privy Council Office.

Many witnesses spoke to us about the lack of political will shown by the Government of Canada to engage in serious negotiations and to give practical expression to the symbolic commitments made, for example, in the Inherent Right Policy and "Gathering Strength." Throughout our hearings, the committee learned of problems arising from the absence of a statutory framework to provide a clear expression of the government's policy on the negotiation and implementation of relationships with aboriginal peoples.

Therefore, honourable senators, the committee has recommended that new legislation be introduced by the federal government to provide a broad statutory framework that would address this issue. Such legislation would guide the federal government in organizing itself for the purpose of negotiating, managing and administering its relationship with the aboriginal peoples.

Many aboriginal witnesses spoke of the need for independent structures outside the regular courts, structures that could address the grievances of aboriginal peoples and supervise the negotiation and the implementation of relationships between aboriginal peoples and Canada. New structures and institutions that are independent and have effective powers of oversight concerning aboriginal government relations have been recommended by previous inquiries and commissions. It is surprising that few have been established to date at the national level.

The committee has recommended that a treaty and aboriginal rights implementation review commission be established to serve at the national level — an independent oversight body. This body would report to Parliament. The commission would report, investigate, and facilitate. It would oversee relationships in order to promote, respect and uphold the aboriginal and treaty rights of aboriginal people, the honour of the Crown, and the spirit and intent of the treaties, self-government, and related agreements and legislation.

Finally, we heard concern about the lack of capacity within the Canadian judicial system to adjudicate aboriginal and treaty rights cases and to deliver consistent, timely and enforceable decisions that can be a fulfilment of the Crown's legal obligations. While the committee considered alternative approaches to reforms to the judiciary, we do not at this time feel prepared to advance specific recommendations. However, we do believe that the capacity of the Canadian judiciary and others working within the Canadian legal system can be enhanced. We highlight opportunities for cross-cultural training and education in the areas of aboriginal and treaty rights, developments in aboriginal and treaty law, as well as aboriginal perspectives, culture and traditions. The report includes a recommendation in this regard.

The recommendations contained in the committee report are directed at overcoming obstacles to the timely and efficient negotiations and implementations of new relationships.

• (1700)

We anticipated that, if acted upon, our recommendations for institutional and legislative reform will better serve both governments and aboriginal peoples as they work cooperatively to establish relationships of partnership. Such reform will foster improved economic conditions and eliminate hardship in our native communities.

Indeed, we believe that many of our recommendations can be implemented without the commitment of significant additional financial resources by Canada. However, they will require, in some instances, the reallocation of existing resources. Over the longer term, we think that savings will happen because agreements will be completed in a more timely and consistent fashion. The Government of Canada's administrative structures will be reorganized toward supporting political relationships based on partnership rather than on dependence. Aboriginals and the government parties will rely less on the courts as a primary forum for resolving disputes.

In the first phase, our committee had to recommend those structural changes in government arrangements to facilitate negotiation and implementation and to avoid costly legal disputes. However, our witnesses also drew attention to a wider set of issues.

Many witnesses shared their practical experience with different approaches to aboriginal governance and described in some detail their proposals and aspirations in this regard. We were particularly interested to hear of innovative approaches to aboriginal self-government in urban areas. We acknowledge that there is an urgent requirement to focus on the needs and the circumstances of aboriginal people living in urban environments.

Intervenors also spoke to us about the need to assist aboriginal peoples in building their capacity to govern and their accountability. They addressed important issues, such as membership, housing, education, social and economic development, women's rights, and the need for an adequate land base on which to build healthy and sustainable aboriginal economies. The committee further sees real urgency in dealing with women's issues in particular.

Regrettably, the time frame that the committee set for itself did not permit us to conduct a comprehensive review of all those important issues. However, the report reflects the many different views and concerns of aboriginal peoples in those areas. We hope to be able to pursue those issues in our future work.

On motion of Senator Johnson, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Dan Hays (Deputy Leader of the Government), with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, February 16, 2000, at 1:30 p.m.;

That at 3:30 p.m. tomorrow, if the business of the Senate has not been completed, the Speaker shall interrupt the proceedings to adjourn the Senate;

That should a division be deferred until 5:30 p.m. tomorrow, the Speaker shall interrupt the proceedings at 3:30 p.m. to suspend the sitting until 5:30 p.m. for the taking of the deferred division; and

That all matters on the Orders of the Day and on the Notice Paper, which have not been reached, shall retain their position.

Motion agreed to.

The Senate adjourned until Wednesday, February 16, 2000, at 1:30 p.m.

Tuesday, February 15, 2000

	PAGE		PAGE
SENATORS' STATEMENTS		Transitional Jobs Fund—Unemployment Rate Qualifying Level for Edmonton West. Senator Ghitter	
Flag Day			626
Senator Graham	618	Senator Boudreau	626
Senator Di Nino	619	Job Creation Programs—Possible Mismanagement of Funds—Grant to Developer of Warehouse to Store Wal-Mart Stock.	
Senator Prud'homme	619	Senator Ghitter	626
The Late J. Angus MacLean, P.C.		Senator Boudreau	626
Tribute. Senator Calbeck	620	Senator Hays	627
National Defence		<hr/>	
East Timor—Use of Land Mines. Senator Forrestall	620	Pages Exchange Program with House of Commons	
<hr/>		The Hon. the Speaker	
Visitors in the Gallery		627	
The Hon. the Speaker	621	<hr/>	
<hr/>		ORDERS OF THE DAY	
ROUTINE PROCEEDINGS		Criminal Records Act (Bill C-7)	
Aboriginal Governance		Bill to Amend—Message from Commons.	
Report of Committee on Study Tabled. Senator Watt	621	627	
Census Records		Medical Decisions Facilitation Bill (Bill S-2)	
Presentation of Petitions. Senator Milne	621	Second Reading—Debate Continued. Senator DeWare	
<hr/>		627	
QUESTION PERIOD		Public Service Whistle-Blowing Bill (Bill S-13)	
Foreign Affairs		Second Reading—Debate Continued. Senator Finestone	
Civil War in Sudan—Request for Clarification of Diplomatic Policy. Senator Andreychuk	622	629	
Senator Boudreau	622	Criminal Code (Bill C-202)	
Civil War in Sudan—Involvement of Talisman Energy Inc..	622	Bill to Amend—Second Reading—Debate Adjourned.	
Senator Andreychuk	622	Senator Moore	
Senator Boudreau	622	632	
Civil War in Sudan—Human Rights Violations.	623	Census Records	
Senator Kinsella	623	Petitions Accepted. The Hon. the Acting Speaker	
Senator Boudreau	623	Senator Milne	
National Defence		Senator Kinsella	
East Timor—Use of Land Mines. Senator Forrestall	623	Senator Cools	
Senator Boudreau	623	633	
Court Martial of Sergeant Mike Kipling. Senator Atkins	624	European Monetary Union	
Senator Boudreau	624	Report of Foreign Affairs Committee on Study—	
Foreign Affairs		Debate Adjourned. Senator Stollery	
China—Detention of Catholic Archbishop. Senator Di Nino	624	634	
Senator Boudreau	624	Senator Bolduc	
Request for Clarification of Human Rights Policy Between Large and Small Countries. Senator Di Nino	624	635	
Senator Boudreau	625	Energy, the Environment and Natural Resources	
China—Detention of Catholic Archbishop. Senator Kinsella	625	Second Report of Committee Adopted. Senator Spivak	
Senator Boudreau	625	636	
Human Resources Development		Business of the Senate	
Job Creation Programs—Possible Mismanagement of Funds—Distribution of Grants. Senator LeBreton	625	Senator Watt	
Senator Boudreau	625	Senator Kinsella	
Transitional Jobs Fund—Unemployment Rate Qualifying Level.	625	Senator Corbin	
Senator Ghitter	625	Senator Hays	
Senator Boudreau	625	636	
<hr/>		Francophone and Acadian Communities Outside Quebec	
		Deterioration of Services—Inquiry. Senator Kinsella	
		636	
		National Defence	
		Motion to Establish Special Senate Committee to Examine	
		Conduct of Personnel in Relation to the Somalia Deployment	
		and the Destruction of Medical Records of Personnel Serving in	
		Croatia. Senator Lynch-Staunton	
		637	
		Senator Bryden	
		641	
		Aboriginal Governance	
		Report of Committee on Study—Debate Adjourned.	
		Senator Watt	
		642	
		Adjournment	
		Senator Hays	
		643	



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Coeur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

•

36th PARLIAMENT

•

VOLUME 138

•

NUMBER 28

OFFICIAL REPORT
(HANSARD)

Wednesday, February 16, 2000

THE HONOURABLE GILDAS L. MOLGAT
SPEAKER



CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Wednesday, February 16, 2000

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

NOVA SCOTIA

LUNENBURG ASTHMA CARE CENTRE

Hon. Wilfred P. Moore: Honourable senators, I rise today to make a statement in recognition of the Lunenburg Asthma Care Centre, which is located in the Fishermen's Memorial Hospital in Lunenburg, Nova Scotia. Commenced just four years ago, the centre was recently named the top Canadian clinic of its kind in a study done by Queen's University of Kingston, Ontario, as the best of eight asthma clinics in Canada at treating adolescent patients.

Not only has the centre dramatically improved the lifestyles of its child and adult patients, it has saved the health care system approximately \$650,000 per year. Since opening in 1996, the centre has worked with about 700 clients, more than 400 of them children. The centre has been responsible for reducing the number of emergency room visits, decreasing hospital admissions and shortening patient stays in hospital. Fewer children are missing school and fewer parents are missing work because their children are sick.

Nova Scotia has the second highest incidence of asthma in Canada. Prince Edward Island has the highest. Doctors are still trying to determine why.

What distinguishes this centre from others in Halifax, Kentville and Yarmouth is that it is dedicated exclusively to asthma. The prime function of the centre is to teach people how to control their asthma instead of asthma controlling them.

The centre's success is due to its one-on-one patient care, stressing education through self-assessment and self-help. Other centres have self-help groups or videos rather than the one-on-one teaching offered here.

We commend the centre's medical director, Dr. Tony Atkinson, and his dedicated staff. We wish them and their patients continued success as they pursue and expand their national standard-setting asthma treatment program.

HEART AND STROKE MONTH

Hon. Wilbert J. Keon: Honourable senators, February has been designated as Heart and Stroke Month. According to the Heart and Stroke Foundation, cardiovascular-related diseases kill more than 77,000 Canadians every year. In a world of fast food, high stress, inactivity and smoking, many Canadians fail to recognize that the key to longevity is a healthy heart.

As the baby boomers hit middle age and health care systems struggle with an aging population, heart disease and stroke remain the number one cause of death for Canadians. Cardiovascular disease claims more lives than all the other forms of cancer, respiratory disease and accidents. It is time that we all began to take better care of this vital organ.

In 1998, the Canadian Heart and Stroke Foundation released a report outlining children's health habits. The findings were startling. The report indicated that children between the ages of six and twelve were already living extremely unhealthy lifestyles. For example, only 20 per cent of Canadian children eat the daily recommended amount of fruits and vegetables, while an astonishing 40 per cent of our children eat junk food more than three times a week. These statistics are sobering and indicate a strong likelihood for further health problems.

No longer is heart disease perceived as a man's disease. Today, statistics show that heart attacks and strokes affect a significantly higher number of women. Heart attacks and strokes are robbing Canadian families of wives, mothers and daughters. Although there have been significant advances in cardiovascular care and research is ongoing, the best medicine to ensure a healthy heart is by living a healthy lifestyle.

People use the word "heart" to express many emotions. For example, people say, "My heart swelled with pride" and "I love you with all my heart." It would seem that as our heart is associated with the most important aspects of our lives, perhaps now is the time for all of us to take care of this vital and precious organ.

The Heart and Stroke Foundation is a wonderful philanthropic organization that funds about \$47-million worth of research in this field every year. In addition, their health promotion programs include exercise promotion, nutrition counselling and anti-smoking programs to improve the heart health of our nation.

Please join me, honourable senators, in congratulating the many volunteers who make this wonderful organization work.

THE LATE GORDON HARVEY AIKEN, Q.C.

TRIBUTE

Hon. Norman K. Atkins: Honourable senators, in recent times when one thinks of the Parry Sound—Muskoka area, it tends to bring thoughts of quiet lakes, cottages, fish hatcheries and all the good things that go along with life in that wonderful vacation area of Ontario. Politically, one thinks of Stan Darling, who served that area for many years, retiring in 1993, and who was dean of the House in his latter years there. Before Stan Darling, that area was incredibly well represented by the Progressive Conservative member of the House of Commons, Gordon Aiken. From June 10, 1957, until October 30, 1972, through six straight election victories, Gordon took his place in the House of Commons to serve not only the people of Parry Sound—Muskoka but also, with his vision, all Canadians.

• (1340)

Gordon Aiken passed away last Saturday at the age of 82. His was truly a life worth remembering and celebrating. A lawyer and graduate of Osgoode Hall in 1940, he served in the Second World War in Europe as an officer of the Royal Hamilton Light Infantry. He returned to Muskoka after the war, practising law and then serving on the bench as a judge of the juvenile and family court from 1951 to 1956.

However, it is in his career as a member of the House of Commons that I remember best his impact on political life in Ontario. He served as opposition critic in relation to the environment from 1963 to 1972, long before environmental causes became popular with the public. Under opposition leader Robert Stanfield, he served as deputy house leader from 1967 to 1970. He also chaired the House Finance Committee and represented Canada as a delegate to the United Nations General Assembly during some of Diefenbaker's years. During his time in the House of Commons, Gordon Aiken became an advocate for many of the causes that are with us today.

Gordon was on the cutting edge of thinking regarding various ideas. For example, in 1965, as part of the Progressive Conservative task force studying education funding, he called on the government to introduce the concept of writing off part of the student loans as a reward for scholastic achievement. He attended Premier John Robart's 1967 Federation of Tomorrow Conference as an observer and commented at its conclusion:

The conference was judged by all observers to have been an unqualified success. It made its objective when it proposed to explore the measure of agreement and the range of differences among Canadian provinces. It actually went further than this because it narrowed the range of differences by public exposure and debate. It showed that public discussion of Canada's problems by responsible people, face to face, can result in a better understanding both by those involved and the public. Such understanding is necessary before any real work of preparing for our second hundred years can be successful.

He was an intense advocate for a cleaner environment. One example was a motion he introduced in the House of Commons in 1969, accusing the federal government of not asserting its leadership and not taking effective action "to attack the worsening contamination of Canada's environment by pollution."

After his retirement from the House of Commons, he wrote about his experiences, published by McClelland and Stewart, entitled *The Backbencher – Trials and Tribulations of a Member of Parliament*. In that work he advocates more power being given to backbenchers through freer votes and fixed term elections.

On his retirement from public life, an editorial —

The Hon. the Speaker: Honourable Senator Atkins, I regret to interrupt you, but your three minutes have expired. Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Please proceed.

Senator Atkins: On his retirement from public life, an editorial in the *Orillia Daily Packet and Times* stated that, "We will be disappointed to see Gordon Aiken retire. But he has served us long and well."

Our sympathies go out today to all of Gordon's family, and especially to his wife, Ingrid.

QUESTION PERIOD

AGRICULTURE AND AGRI-FOOD

FARM CRISIS IN PRAIRIE PROVINCES— RESPONSE OF PRIME MINISTER

Hon. Leonard J. Gustafson: Honourable senators, I rise to ask a question of the Leader of the Government in the Senate concerning the crisis that exists in agriculture. Our news has been full of activity in Saskatchewan, Manitoba, Alberta and B.C. We are in a crisis situation; there is no question about that. Commodity prices are way below the cost of production. Yet, in so many ways, there has been no positive response from the government. Yes, there have been some proposals, but not a positive response.

I wish to read to you what the President of the United States said in responding to the agriculture problem facing American farmers, who now receive 40 per cent of their income from the government. President Clinton asked thousands of people crowded into Washington Park in downtown Quincy, on a chilly winter day, "...to support our efforts to help farmers." That statement comes from an edition of *The Co-operator*, a Manitoba paper, that I just received.

Why is the Prime Minister of Canada not responding in this fashion? He has not been out to see the situation or to speak to the farmers in Saskatchewan or Manitoba. Something must be done. It is my view that until the Prime Minister moves on this, nothing will happen in a positive way. We are probably no more than two months away from spring seeding. I have finished my spring seeding by the end of April in some years. This is a crisis situation. Why is the Prime Minister not responding to this situation?

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, I thank the honourable senator for that question and acknowledge his ongoing concern over this very important issue.

I shall not repeat at any great length the measures that have been taken thus far. I have stated them before in this place. However, we had participation from the provinces involved with respect to the normal sharing arrangement. The Minister of Agriculture has committed publicly, and it still remains in place, \$1 billion. If we had the usual matching from the provinces, we would have an additional \$1.67 billion to bring to bear on this critical issue. Unfortunately, to date, to the best of my knowledge, it has not been forthcoming.

As I have indicated to the honourable senator in the past, I shall certainly raise this concern directly with the Prime Minister. I shall indicate to him the senator's strongly held belief that the Prime Minister should intervene on a personal level. I must also point out the efforts of the Minister of Agriculture in this area, and I do support those efforts.

• (1350)

Senator Gustafson: Honourable senators, I talk to farmers all the time, and I know that in the area in which I farm, very few people received any money at all. We will seed our crops, but many farmers do not have funds for the input costs.

This is now a national problem, not only a problem in Saskatchewan. I agree that Saskatchewan should come to the table as well. I cannot emphasize enough the gravity of this situation.

Will there be some action in the next few weeks? There must be some action so that farmers have something to take to their bankers in order to get funding for their input costs.

Senator Boudreau: Honourable senators, we have debated in this place that there are difficulties with the AIDA program getting money to farmers in need in an expeditious way. The criteria for the AIDA program being a joint program was developed out of discussions between the provinces and the federal government.

It seems that there is room now for useful discussion between the federal government and the provinces, particularly when we have a potential pool of \$1.67 billion over the next two years. The Province of Saskatchewan should be anxious to come to the

table and clearly express its views on what changes should be made to the AIDA program. However, that approach also requires it to come to the table with financial resources. One cannot be done one without the other. Frankly, the Province of Saskatchewan has done exactly the opposite. It has indicated that it is withdrawing from the second year of the existing program, which makes it difficult to have the discussions everyone wishes to see.

To acknowledge the specific point the honourable senator made, there is a need for assistance in terms of advances to farmers to allow them to get their crops in the ground. The minister is aware of that and I think he is currently working on it.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I find what the minister has just said to be scandalous. How can he justify defending, as he did yesterday, grants to Wal-Mart, which did not need the money? How can he justify the Prime Minister of Canada remaining absolutely silent on the issue of hundreds of thousands of Canadians who are in the midst of the worst economic plight Canada has seen since their parents and grandparents suffered through the Depression of the 1930s?

The Prime Minister of Canada, who at this moment is probably getting ready to defend a discredited Minister of Human Resources Development for boondoggling hundreds of millions of dollars, cannot stand up and tell the farmers of Western Canada that he cares. Why has he never gone out there to witness their plight?

Senator Boudreau: Honourable senators, I must repeat, as a reminder to the Honourable Leader of the Opposition, that the federal government committed through the AIDA program and other income support programs approximately \$600 million a year before the recent additional commitment of \$1 billion over two years.

As a matter of fact, since I took my seat in this chamber, not that long ago, federal funding has been increased, first by \$170 million and then by an additional \$1 billion. The honourable senator may argue that this is not enough, and he may argue that the programs are not designed exactly as they should be. I respect those arguments. However, I do not believe that one can argue that nothing has resulted. We are talking about an additional \$1.17 billion in recent months.

Hon. A. Raynell Andreychuk: Honourable senators, my question is supplementary to the comments of the minister, particularly those with respect to the position of the provincial government. The minister has stated continually in his answers, both before Christmas and now, that it is up to Saskatchewan to come to the table. Perhaps one of the reasons the premier cannot come to the table is that once bitten, twice shy. The federal government led all kinds of negotiations and discussions into the AIDA program. That approach simply did not work. Now the minister is saying that the premier should come to the table to discuss it again.

We have heard Senator Gustafson say that there is no time for talk. These issues are known and the answers are known. What is needed is leadership from the Prime Minister saying that this is a national crisis — not a Saskatchewan crisis led by Premier Romanow — and that he intends to do something about it. The answer is not \$1 billion because the \$1 billion is not currently available. It is to be negotiated and discussed, subject to all kinds of terms. That is not immediate help.

We have only one federal minister from Saskatchewan, and he has been conspicuously silent. He has said that there is no more money. The Prime Minister is conspicuously silent. Thank God for the one person on the other side who has spoken out, and that is Senator Sparrow. I do not know why he is not being listened to.

Why does the Prime Minister not treat this as a national crisis? Why does he not step up to the plate and tell Canadians what he plans to do for Saskatchewan farmers?

Senator Boudreau: Honourable senators, I am certain that the Prime Minister and the government consider this to be a serious national issue, as indicated by the type of financial commitments that have been made.

The Saskatchewan government may have reservations about the existing program. It may believe that the program does not work well enough and that changes should be made. That is fine, but I do not forgive them as easily as does the Honourable Senator Andreychuk.

When the federal government said a number of months ago that it had an additional \$170 million as part of a cost-sharing program, the Government of Saskatchewan said that it was not contributing any more money. The Government of Saskatchewan did not even say that it would do something else with its share. They did not commit one extra penny, either as part of our program or part of their own program.

When we announced \$1 billion over two years, we expected that there would be some participation after the loud proclamations that farmers should have additional support. We expected that the Saskatchewan government would come to the table and be prepared to share the cost. If the Government of Saskatchewan had a problem with this program, it could have said that it did not want to enter into the program because it did not think the program would work or that it wanted to do something else with its share.

I may be wrong, but I do not know that the Government of Saskatchewan has committed any additional money.

Senator Andreychuk: Honourable senators, this is not a federal-provincial negotiation that requires the provincial government to be at the table. Why is this not a national issue and why is the Prime Minister not taking it on?

If we had an errant premier in Saskatchewan who did not want to get involved in the issue — which I do not think is the case —

is the Leader of the Government in the Senate saying that Saskatchewan farmers, Saskatchewan voters and Saskatchewan people do not count, that the Government of Canada has no responsibility for this crisis in Saskatchewan, and that the federal government cannot deal with the crisis unless it is arm in arm with the Premier of Saskatchewan? Where is the national leadership and the national interest? This is an issue of national interest. It is an issue of food supply. Every Canadian will be affected if those farms go down. When will the Prime Minister take this crisis on?

Senator Boudreau: Honourable senators, it is clear that this is a shared jurisdiction.

Senator Lynch-Staunton: Tell that to the farmers.

Senator Boudreau: There is no doubt about that. That is why, in the past, both governments have discussed the AIDA program, have cost shared and have both participated.

• (1400)

In fact, the federal government has not said that if the provincial governments fail to participate, they, too, will leave the field. As a matter of fact, the Government of Saskatchewan has indicated that they will withdraw from year two of AIDA. They have not yet done that but they did publicly make that announcement.

In response, the Government of Canada said that they did not think it was a good idea for the province to withdraw, that they wanted the province to stay in the program and that the federal money would remain in the program nevertheless. The additional \$170 million was initially proposed, presumably, as a cost-sharing arrangement. The provincial governments have not participated. The federal government has not said they will take it back. We do recognize our responsibility and the money has been put forward.

Many may believe that the programs are not working as they should. I do not think you will find huge disagreement on either side of this house on that question. You may hear the opinion that more money should be committed, and that is a legitimately held opinion. In my view, you cannot say that the provincial government has played their full role in this assistance. The federal government has not withdrawn, even though the provincial governments have failed to step up.

Senator Lynch-Staunton: Honourable senators, I have a supplementary question. There was a time when the much-maligned Grant Devine, former premier of Saskatchewan, called the much-maligned Brian Mulroney, former prime minister of Canada, and said, "We have a crisis here in Saskatchewan." Before you knew it, the money flowed where it had to go to help the farmers face the crises they were in at the time. No one hid behind the jurisdictional shared-cost arrangement.

Senator Bryden: Are we having a "Devine" intervention here today?

Senator Lynch-Staunton: I wish we had one today, instead of a Chrétien cop-out. We are now in a worse agricultural crisis than Devine and Mulroney saw, worse than what happened in the 1930s — despite the rantings and ravings of the guy over there who has no idea what I am talking about, the one who supports Wal-Mart, the one who is screeching over there.

Senator Tkachuk: He shops at Wal-Mart.

Senator Lynch-Staunton: Why is the government hiding behind shared costs and respect for jurisdiction? If the Government of Saskatchewan does not accept, why can you not move ahead? You have the money. You have the surplus. Thousands of farmers in Manitoba and Saskatchewan are suffering like they never have before. They are the backbone of rural Western Canada.

I am starting to think that the reason is simple: They all voted for the Reform Party, and the fact that they voted Reform must mean they do not believe in subsidies. They voted for the Reform Party for many different reasons. The Prime Minister seems to be saying, "They voted Reform; we have no votes out there, so let us ignore them. The votes are in urban Saskatchewan and in urban Manitoba. Let's put the boondoggle grants in Winnipeg and forget about the farmers in rural Manitoba and rural Saskatchewan."

That is the answer. If Jean Chrétien really cared, he would go out there and see for himself. He would take Mr. Goodale and Mr. Vanclief and the others and see the situation for themselves. A quick fly-over in a plane is not good enough. He is not going because he knows that what he will see there will bring tears to his eyes, as it does to most Canadians, except this arrogant Liberal government.

Senator LeBreton: Too bad it is not a hotel or a golf course.

Senator Boudreau: Honourable senators, I will resist the temptation to comment on the fiscal management of the Mulroney-Devine team, both here and in Manitoba, or in Saskatchewan, rather.

Senator Lynch-Staunton: You know where Wal-Mart is but not where Devine lives?

Senator Boudreau: The opposition dismisses the new commitments of \$1.17 billion made over the last number of months as if they had not occurred. That is a significant commitment which was made by the federal government in the hope that there would be provincial participation as well. The provincial participation has not come. However, the federal government has not withdrawn its participation.

Senator Kinsella: Where are the seeds? What is in the ground?

Hon. Herbert O. Sparrow: Honourable senators, Senator Gustafson made the statement that we are two months away from seeding. Let me tell you, we are two months away from total disaster. How can we just sit here? Why is this side of the house belittling the problem that exists? There is something wrong with the Senate if we cannot understand that this problem exists as it does.

How much longer are we going to just sit here? Some farmers have phoned to tell me that their power has been cut off. Some phoned to say they had to call before the telephone was cut off. There is no provision for social assistance or other help because farmers hold assets.

Mr. Minister, you are trying to defend the indefensible.

Some Hon. Senators: Hear, hear!

Senator Sparrow: Honourable senators, we are asking that the leader, rather than trying to defend the government, simply take the message continually to the cabinet and to the Prime Minister. Tell them of this serious problem. That is my question, and I will ask in a minute if he will do that.

The leader has talked about the extra money, the \$1 billion that will go into the agricultural community. That amount is to be spent across Canada over this year and next year, but the problem is now! He is passing on the message that the provinces will not contribute money. They tried to contribute \$200 million to the AIDA program but could not because the money did not flow from the AIDA program. We are still waiting for money from the AIDA program. The \$1 billion is not even close to being paid out. In the interval, those people who got nothing are still getting nothing. The only thing they have now is a loss of hope and a loss of understanding.

I say from this side of the house: The understanding is just not there. Surely to goodness, the leader can continue to take the message to the government concerning the seriousness of this situation. If the other place is not listening, surely this house can get that message across. I appeal to the Leader of the Government; rather than defending the government, to tell us that he will take this message to the Prime Minister.

Senator Boudreau: Honourable senators, I can give that commitment without reservation. As a matter of fact, I have given it to senators opposite and I will continue to do that. I would suggest to the honourable senator that perhaps he may wish to deliver the message himself because he can do it with much greater knowledge and emotion than I can.

FARM CRISIS IN PRAIRIE PROVINCES—
RESPONSE OF GOVERNMENT

Hon. David Tkachuk: Honourable senators, it is interesting to note that the Government of Saskatchewan is a coalition formed by the NDP and the Liberal Party. Now it seems to be following the same policy as the Liberal Party in Ottawa, which is not to do anything about this problem in Saskatchewan.

It was interesting to read in *The Western Producer* what Minister Vanclief had to say about support for farmers on February 17 of last year. He said that the reality of today is that governments cannot bail out any and all businesses that, for whatever reasons, are having financial difficulties. Governments cannot be all things to all people at all times. Minister Vanclief should have a little discussion with Minister Stewart about this particular government policy.

Senator Ghitter: More grants from Stewart.

• (1410)

Senator Tkachuk: The Organization for Economic Cooperation and Development said that subsidies and supports for farmers are continuing, both in Europe and the United States. The European Union pays out U.S. \$141 per tonne. The U.S. farmers receive \$61 per tonne and Canadian farmers receive \$8 per tonne. In international negotiations, our major competitors have said that they will continue the maintenance of export subsidies and direct payments to farmers. Therefore, I should like to ask the Leader of the Government today to express the government's position on how it intends to ensure the survival of the Prairie farmer?

Hon. J. Bernard Boudreau (Leader of the Government): With respect to the subsidies to which the honourable senator refers, obviously it is the goal of the Government of Canada to work towards levelling the playing field. We are not capable of levelling the playing field by offering those subsidies. Therefore, our goal is to work through world trade organizations in order to deal with the incredibly large subsidies that are given to our farmers' competitors. Commodity prices have been low because of those subsidies and because of a series of bumper crops in the various commodities affected.

Honourable senators, the Government of Canada will continue with financial assistance. The Minister of Agriculture is very aware of the situation and continues to work on the problem. It is our hope that the provincial governments will take up the challenge as well.

Senator Tkachuk: Honourable senators, this provincial government issue has been raised again. It is most interesting.

Today I had a meeting with farm groups and a mayor from Manitoba. They talked about the flooding in southwest Manitoba and, of course, in southeast Saskatchewan. When they go to see Minister Eggleton because they want their regions declared disaster areas, Minister Eggleton says, "Oh, no, this is an agricultural problem. Go and see Mr. Vanclief." The farmers go to see Mr. Vanclief, who says, "This is not really an agricultural problem. This is Minister Eggleton's problem." Then when they go to see the federal government, they are told, "This is not our problem. We need the province to cooperate." Then the farmers go to the province and are told, "We need the federal government to cooperate."

How the hell is this country running? Those farmers out there do not care who solves the problem. They want the problem solved. Surely to God we can expect two governments to sit down and solve a problem, not tell farmers to go to this government or that government, this department or that department. These farmers did not vote for departments; they voted for people. They expect people to represent them and they expect people to do something about their problem.

Senator Boudreau: Honourable senators, I believe it is the wish of all parties that both levels of government come together since this is a shared jurisdiction. Historically there have been joint programs. One would hope there will continue to be joint programs, but there must be at least some indication.

Honourable senators, I am not trying to absolve the federal government of its responsibility. In fact, the federal government has committed large sums of money. I am happy to see the honourable senator at least willing to share some of the responsibility with the provincial government because they need to come forward with their resources.

Senator Lynch-Staunton: Meanwhile, the farmers suffer.

Senator Boudreau: In the meantime, the federal government has put its money on the table and will proceed with or without the provincial governments.

Senator Tkachuk: Surely the Prime Minister is not helpless.

Senator Meighen: Do not take anything for granted.

FARM CRISIS IN PRAIRIE PROVINCES— RESPONSE OF PRIME MINISTER

Hon. David Tkachuk: Senator Meighen raises a good point. I will not take it for granted.

Surely the Prime Minister can go to Saskatchewan and say, "Here is what I will do" Surely he can put a little pressure on the provincial government to come to the table, instead of sitting in Ottawa while the Premier of Saskatchewan is sitting in Regina and the farmers are sitting in the legislature. The Prime Minister can do that at least. That is a sign of leadership of which this Prime Minister seems to have absolved himself.

Senator Lynch-Staunton: He is watching the golf channel.

Hon. J. Bernard Boudreau (Leader of the Government): I will add the honourable senator's name to the list of those who have expressed the view that the Prime Minister —

Senator Lynch-Staunton: We are not signing a petition. You are the government.

Senator Boudreau: — should visit the province and see the challenges firsthand.

FARM CRISIS IN PRAIRIE PROVINCES—
RESPONSE OF GOVERNMENT

Hon. Mira Spivak: Honourable senators, as a representative of Manitoba, I cannot help but rise to reiterate what other senators have said, in particular Senator Sparrow. The message is that this is not business as usual. One cannot have a cool and nuanced response, which is to some extent inaccurate, in terms of the programs being administered. In the face of survival one cannot do that, particularly since the farmers in Manitoba have not been able to get any money from the program to which the leader has referred. That is a federal government program, regardless of whether it is joint with the provinces.

Honourable senators, I wish to continue with another question. The Minister of Agriculture said in January that this is it, federally — there is no more money. Leaving aside the Department of Human Resources Development, \$6 million has been granted —

The Hon. the Speaker: I am sorry, Honourable Senator Spivak, but the time allotted for Question Period has expired.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, in the interests of the continuity of Question Period and accommodating senators on the other side, I propose that we give leave to extend Question Period to 20 minutes after the hour.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the deputy leader's offer is helpful, but considering that we have been informed that the Leader of the Government in the Senate will not be here tomorrow, considering that the Order Paper today is not particularly pregnant with business, and considering the lack of seed in the ground of our farming community that feeds this nation — including providing bread for 24 Sussex Drive — could the government side agree, together with our honourable independent senators, that Question Period for today continue until 2:30 p.m.?

Hon. Marcel Prud'homme: I did not agree to anything yet.

Senator Spivak: May I continue?

Senator Prud'homme: My wish is that we continue until 3 p.m.

The Hon. the Speaker: Honourable senators, unless there is agreement, I will proceed to Delayed Answers.

Senator Hays: Honourable senators, I do not think the matter of leave is debatable; therefore, I will not debate honourable senators. I will reiterate, however, that in the interests of not stopping a question before it has been answered and giving a reasonable period of time for senators opposite or on this side to ask their questions, I ask leave to extend the Question Period another five minutes.

The Hon. the Speaker: Is leave granted to extend Question Period another five minutes, honourable senators?

Hon. Senators: Agreed.

Senator Spivak: Honourable senators, as I said, the minister indicated that there is no more money. That is it.

I wish to point out that a producer gets perhaps 4 cents out of a loaf of bread. That is all. However, the government has given \$6 million to a biotech lobbyist, whose members are Monsanto, Eli Lilly and Dupont. As well, there have been approximately \$11 billion in grants over the past few years to 75 of Canada's largest companies, such as AECL and aerospace companies like Pratt & Whitney and Bombardier.

Can the Leader of the Government here justify why there is money for grants and loans — some of which are not repayable — to larger, successful companies while there is not sufficient money to rescue the western farm economy in Canada?

• (1420)

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, there are obviously serious challenges for government in all sectors of our economy and society, and each one needs to be addressed. There needs to be job creation programs, in my view, to help certain segments of our society and perhaps certain geographically disadvantaged areas. As well, there has to be support for the farming community. They are not mutually exclusive. I do not think they should be matched one against the other.

There is a significant and important challenge for us in the farming community, particularly now in Manitoba and Saskatchewan. I appreciate the comments that honourable senators have made. I have given my undertaking that I will communicate those comments to my cabinet colleagues, although perhaps not with the emotion and effectiveness with which some senators have delivered them here. I do not know what else I can contribute at this moment.

Senator Spivak: My point, honourable senators, is that, while we do need to create jobs, there is a difference between business as usual and this serious crisis, which has a time element to it.

My question was: What reasons could the Leader of the Government give for looking at this issue as if it were business as usual? I think that is the basic question.

Senator Boudreau: Honourable senators, I appreciate the fact that the challenge we face in the farming communities in Manitoba and Saskatchewan cannot be considered business as usual. I do not believe that is the opinion of the Minister of Agriculture. I know he is working very hard to deal with an extremely challenging situation. Funds have been brought to bear on the crisis. Whether or not the honourable senator agrees that they are sufficient is an issue. Whether or not honourable senators agree that the funds are being delivered in the best way possible is an issue. However, I know the Minister of Agriculture is aware of the nature of the situation. I do not believe he would describe it for a moment as business as usual.

FARM CRISIS IN PRAIRIE PROVINCES—
FLOODING PROBLEM IN MANITOBA AND SASKATCHEWAN

Hon. Terry Stratton: Honourable senators, I should like to ask a question of the Leader of the Government in the Senate. Is he aware of the flooding problem in southwestern Manitoba and southeastern Saskatchewan? Farmers there have requested money. They applied under AIDA and were told the problem does not fall under that program. They applied under the Flood Disaster Relief Program and were told it does not fall under that program. They are falling between the cracks. They do not seem to fit into a program. They are desperate for money so that they can clean up their fields. Their fields are full of weeds. Their fields need work desperately, and they do not have the money to do it. They are tapped out.

How would you like it if a young farmer came in to see you and said, "I am packing it in," because he cannot afford to farm any more? The average age of a farmer in Saskatchewan is now over 60. For goodness sake, do something. Find help for these farmers in southwestern Manitoba and southeastern Saskatchewan, because they are falling between the cracks. Please.

Senator Lynch-Staunton: Let them get a job at Wal-Mart.

Hon. J. Bernard Boudreau (Leader of the Government): Honourable senators, while I am aware generally of the situation in southern Manitoba, I am not aware of specific responses that have been made by any of the ministers of government. However, I will certainly make those inquiries, and if I can get any useful information on this issue for the honourable senator, I will.

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Poulin, for the second reading of Bill C-202, to amend the Criminal Code (flight).—(*Honourable Senator Ghitter*).

Hon. Ron Ghitter: Honourable senators, it is my privilege to participate in the debate on Bill C-202. I regard it to be a particular privilege, considering that this is a public bill from the House of Commons. I compliment the Honourable Dan McTeague, a member in the other place, for bringing this

very important piece of legislation forward, and I congratulate Senator Moore for coming forward with the bill in this chamber.

It is not lengthy legislation, but it is important legislation that endeavours to deal with the problems and accidents that arise as a result of police pursuit situations. I can recall a well-known Calgary family who, while visiting Las Vegas many years ago, ended up being hit by a police car. The accident caused the death of two individuals in the car. It was a terrible tragedy that came about as a result of a police car pursuing a young man who had allegedly committed a crime. The pursuit went through the streets of Las Vegas until the cars came to an intersection which the parents of a number of children from Calgary happened unfortunately, tragically, to be crossing.

It is very important that we ensure that our Criminal Code, and our statutes, both provincially and federally, have enough teeth to cover the situation. Frankly, I was surprised when I first read the legislation. I was surprised that this type of situation was not covered. I was surprised that the police would be hampered in their ability to stop a motor vehicle when the driver is evading the police. I always thought, as a criminal lawyer for many years, that we had enough violations in our Criminal Code to cover the situation. After all, we have offences in the Criminal Code of criminal negligence causing death, and criminal negligence causing bodily harm. We have dangerous driving violations enumerated in the Code, including dangerous driving causing bodily harm. One would think that we have enough offences within our Criminal Code to cover circumstances arising from a hot pursuit. In our provincial motor vehicle statutes, we also have violations called careless driving and lack of due care and attention.

With all of those elements to cover someone in a motor vehicle acting inappropriately, it would seem that we would have it covered. Probably, in most cases, we do, for in most cases of hot pursuit, the driver the police are endeavouring to apprehend would likely be driving dangerously, or at minimum, driving carelessly, which would cause a charge to be laid against that individual.

• (1430)

An interesting circumstance arises, however, when the driver who is being followed by the police is not driving dangerously, criminally or carelessly. In debate in the House of Commons, many have referred to the *O.J. Simpson* case, who was not driving in a manner dangerous to the public. He did not stop when the police asked him to stop, but kept driving along not breaking any laws other than not stopping. In Canada, there is no statute that would require him to do so. It is odd that we have a gap in our statutes and nothing to cover that situation. We should cover it. We have had too much carnage on our highways. We should do whatever possible to ensure that our law enforcement officers have every opportunity and every law available to them to discourage individuals from not stopping when the police are requesting or demanding them to do so. Legislation of this nature is very important.

The police authorities across Canada have been very supportive of this legislation. They have urged the Minister of Justice to proceed with it. I recall in 1993, in the City of Calgary, a policeman was killed by a citizen in flight. You may remember the *Sonnenberg* case involving an officer who was struck by a motor vehicle while laying down a spike belt in an endeavour to stop the oncoming car. It was a terrible tragedy, and one that caused much debate in Calgary and elsewhere as to the situation in which this tragically killed police officer found himself.

Senator Moore has provided me with some statistics, for which I thank him. In the past five years across Canada, 40 policemen have been killed and 305 have been injured in flight situations. Clearly, action is needed. If there is a need for stronger laws with severe penalties, then most of my colleagues on this side certainly support that approach.

There is one element that concerns me, however, and I hope that the Standing Senate Committee on Legal and Constitutional Affairs will examine it when they undertake their review of this bill. I am not sure that the legislation goes far enough. I am not sure that it does what the drafters thought it would do. For example, proposed section, 249.1, states:

Every one commits an offence who, operating a motor vehicle while being pursued by a peace officer operating a motor vehicle, fails, without reasonable excuse and in order to evade the peace officer, to stop the vehicle as soon as is reasonable in the circumstances.

The key wording is "to evade". Let us go back to the *O.J. Simpson* case, where he was being followed. Was he endeavouring "to evade" the police at that time? "Evade" means, basically, to avoid, to move away from, to somehow avoid something happening. O.J. Simpson was not evading. He was not avoiding anything; he was just driving along. He was not taking any steps to move around corners or to get out of sight of the police. There was a helicopter above him and he was continuing along the highway. "Evade" should be defined in the legislation. As an old criminal lawyer looking at that clause, I think one could have a lot of fun with it if a charge was ever laid in a case where there was no criminal negligence, careless driving or dangerous driving. The court would have to deal with whether or not someone was evading the police in a similar fashion to that of Mr. Simpson. I do not think he was endeavouring to evade. He just was not stopping.

Therefore, I invite the committee to determine whether or not that proposed section goes far enough and does what it is

intended to do. I want it to do what it is intended to do. I do not want some smart backroom lawyer coming in and shooting that provision down in flames. I worry that it may not go far enough.

In conclusion, this is important legislation. It will benefit many people in this country. Too many have suffered loss of life and limb because of situations that arise when someone will not stop, resulting in wild chases through our communities and districts. We must bring that to a stop. I congratulate those who worked so hard to bring this legislation forward. I look forward to the bill coming before the Standing Senate Committee on Legal and Constitutional Affairs, where we can look at it to ensure that it does what it is duly intended to do, which is very important.

Hon. Marie-P. Poulin: Honourable senators, in yesterday's *Ottawa Citizen*, as in many other dailies and weeklies, there was a poignant picture of a Sudbury regional police officer comforting a mother whose son, also a policeman, was killed while attempting to stop a fleeing motorist. This picture, taken on Parliament Hill in September, 1999, has won a Canadian press award for its powerful and emotive image. This picture invited us to ponder a mother's grief — a grief that is, too sadly, becoming a regular occurrence because of senseless carnage on our highways. Behind the image lies the tragedy of a young policeman whose life was taken while putting a spike belt across a highway in Sudbury's south end to stop a teenage driver from trying to escape from police.

In a twist of raw irony, the dead policeman, Sergeant Rick McDonald, was campaigning actively for a law to address the very circumstances in which he was killed — high-speed chases in which drivers flee to evade apprehension by the police. His wife, who is also a police officer, continues to work in an environment in which she faces the same danger. We must not allow Sergeant McDonald's death to have been in vain, nor the loss of other lives because of recklessness and disregard for the law.

Let this bill be dedicated to Sergeant McDonald and to the many others who have perished while fleeing motorists tried to evade police. Let other families be spared the pain and anguish of the loss of a loved one through reckless and negligent behaviour.

Honourable senators, I urge you to join with Senator Moore and agree unanimously to support this legislation.

On motion of Senator Kinsella, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.

CONTENTS

Wednesday, February 16, 2000

	PAGE		PAGE
SENATORS' STATEMENTS			
Nova Scotia			
Lunenburg Asthma Care Centre. Senator Moore	644	Farm Crisis in Prairie Provinces—Response of Government. Senator Tkachuk	648
		Senator Boudreau	649
Heart and Stroke Month		Farm Crisis in Prairie Provinces—Response of Prime Minister. Senator Tkachuk	649
Senator Keon	644	Senator Boudreau	649
The Late Gordon Harvey Aiken, Q.C.		Farm Crisis in Prairie Provinces—Response of Government. Senator Spivak	650
Tribute. Senator Atkins	645	Senator Hays	650
		Senator Kinsella	650
		Senator Prud'homme	650
		Farm Crisis in Prairie Provinces—Flooding Problem in Manitoba and Saskatchewan. Senator Stratton	651
		Senator Boudreau	651
<hr/>			
QUESTION PERIOD			
Agriculture and Agri-Food			
Farm Crisis in Prairie Provinces—Response of Prime Minister. Senator Gustafson	645	ORDERS OF THE DAY	
Senator Boudreau	646	Criminal Code (Bill C-202)	
Senator Lynch-Staunton	646	Bill to Amend—Second Reading—Debate Continued.	
Senator Andreychuk	646	Senator Ghitter	
Senator Sparrow	648	Senator Poulin	



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Cœur Boulevard,
Hull, Québec, Canada K1A 0S9



CANADA

Debates of the Senate

2nd SESSION

• 36th PARLIAMENT

• VOLUME 138

• NUMBER 29

OFFICIAL REPORT
(HANSARD)

Thursday, February 17, 2000



THE HONOURABLE ROSE-MARIE LOSIER-COOL
SPEAKER *PRO TEMPORE*

CONTENTS

(Daily index of proceedings appears at back of this issue.)

Debates: Chambers Building, Room 943, Tel. 996-0193

Published by the Senate

Available from Canada Communication Group — Publishing, Public Works and
Government Services Canada, Ottawa K1A 0S9,

Also available on the Internet: <http://www.parl.gc.ca>

THE SENATE

Thursday, February 17, 2000

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[Translation]

ROUTINE PROCEEDINGS

ADJOURNMENT

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 59(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, February 22, 2000, at two o'clock in the afternoon.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[English]

QUESTION PERIOD

THE SENATE

ABSENCE OF GOVERNMENT LEADER

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, the Leader of the Government in the Senate is absent today. However, should honourable senators wish to put questions, I would be happy to take them as notice.

BUSINESS OF THE SENATE

Hon. Lowell Murray: Honourable senators, I have a question that the Deputy Leader of the Government might be able to answer. In view of the motion we just passed to the effect that the Senate will meet again on Tuesday at two o'clock, may we expect as heavy a legislative menu next week as we have had this week?

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, I wish to thank the Honourable Senator

Murray for that question. I believe that we will be receiving at least two bills this week.

Senator Murray: Two? That is amazing.

Senator Hays: We have a heavy committee workload, which I hope will be made heavier today as a result of our deliberations. In fact, I fully expect that there will be considerable work done today, at least if all goes according to plan.

We are anticipating some very important legislation. The short answer to the question is that we will have plenty of work to do next week.

[Translation]

ORDERS OF THE DAY

ROYAL ASSENT BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kinsella, for the second reading of Bill S-7, respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament.—(Honourable Senator Corbin).

Hon. Eymard G. Corbin: Honourable senators, earlier, in a conversation with the Deputy Leader of the Government, I had indicated that I would not be speaking on Bill S-7. After further reflection, I changed my mind.

I shall do so more or less off the cuff, because I did not have the time I would have liked to have had to prepare a text. I have even felt pressured from certain quarters to hurry up and speak on this bill. And yet, we are only on the third day.

The bill we have before us is the personal initiative of Senator Lynch-Staunton. Truth to tell, he is not just a regular senator, he is the Leader of the Opposition in the Senate.

According to tradition, the government or the executive does not interfere in the business of backbenchers, whether MPs or senators; these are things we settle amongst ourselves. It seems to me that we ought to have all the time required to look at proposals that are not government bills.

Therefore, honourable senators, I am feeling a bit bothered by some rather indiscreet pressure, and I have to admit I find it shocking. I am hardly a newcomer on the Canadian parliamentary scene, since I am coming up on 32 years of participation in debates. I had the signal honour of being selected by my constituents to represent them for 16 years in the House of Commons, and will soon have served another 16 here in the Senate.

I also deplore the fact that private bills are used in a match between the government and the opposition. I find it rather unhealthy; it does not encourage the goodwill and degree of cooperation that should characterize our work.

I certainly cannot be accused of deliberately delaying the work of the Senate. I will be frank with you. I did it once, because I could not agree to the changes in the *Rules of the Senate* proposed by the party on the other side of the house. I nevertheless played the parliamentary game, and nothing in the rules prevents a senator from using dilatory tactics to make his point.

A bill goes through several important stages — first reading, debate at second reading, consideration in committee, report by the committee and third reading — and Royal Assent is the last stage. We must remember particularly that Royal Assent is part of the process. Without Royal Assent in proper form, we have before us nothing more than paper fit to be recycled, according to Erskine May.

One of the main, if not the main, duties of the representative of Her Majesty in Canada is to give assent to bills. As far as I am concerned, all the rest is window dressing. It is all very fine to hand out the Order of Canada or decorations for bravery, to visit our communities to maintain good relations with Canadians — and I do not want to take away from this aspect of the Governor General's role. However, the main reason Canada has a representative of Her Majesty, however symbolic, is first and foremost to give Royal Assent.

Bills move in Parliament from the first to the final stage publicly. However, I cannot agree with Royal Assent being given a bill in some remote backroom in Parliament or in secret or unknown offices. Royal Assent must be public like the other stages; it is the crowning point of the process and has extraordinary symbolism attached to it. It is the moment elected representatives and the appointees to the Senate receive the approval of the symbolic representative of Her Majesty. It is also the moment when a number of laws come into force. They, therefore, take on at that moment a power that must be recognized and that cannot be repealed, unless a bill is introduced to do so and the process begins again.

I was a little saddened to see some of my colleagues propose that the Royal Assent ceremony be conducted by personalities other than Her Majesty's representative, including recipients of the Order of Canada and others.

This is not part of the process. We have a responsibility regarding this institution, and so does Her Majesty's representative. The Queen, the Senate and the House of Commons form our Parliament. I do not accept the fact that we would delegate the authority of the Governor General to a citizen, however honourable, because this goes against the very reason Parliament and our democratic institutions exist.

• (1420)

In 1660 or 1661, Parliament decided that the body of Oliver Cromwell, that regicide, and those of his associates would be exhumed, handed over to the executioner and hanged at Tyburn. That was done. His body and those of his henchmen were beheaded and buried under the gallows.

Some time later, that same Parliament, the Parliament of the Restoration, decreed that certain acts passed by Cromwell against the King, affecting his person, his prerogatives and his rights, would be burned by the executioner. This is perhaps one way to restore the primacy of Parliament while also giving a warning to those who, in the future, might be tempted to follow the same path.

This private bill should have been introduced by the government. It should have indicated that Her Majesty or the Governor General approves its content and does not object to it. Why? Because this is a measure which affects the rights and prerogatives of the Crown. It is not up to a member of Parliament or a senator to get involved in this area without having been authorized to do so by the person concerned, namely, the one who presides over Royal Assent ceremonies.

I believe the proposal falls down on this point. It should contain a notice indicating that the Governor General or Her Majesty do not to oppose it. What is the aim of this bill exactly? It is to push Royal Assent and all the symbolism that accompanies it into some little office somewhere, far from public view. Parliamentarians are primarily responsible for the current situation. They do not take their responsibility or their oath of office seriously.

When I was a member of the House and we were informed that the Gentleman Usher of the Black Rod was knocking at the door calling us to the Senate for Royal Assent — there were 40 or 50 members, fortunately before the advent of television — everyone hurried to follow the Speaker of the House of Commons. The Speaker went up to the Senate for Royal Assent. Jeanne Sauvé never missed one Royal Assent. I know because I served with her. Lucien Lamoureux never missed a Royal Assent. He arrived at the time the practice of having the Speaker of the House attend Royal Assent in the Senate was gradually dying out. Why? I have no explanation. I am sorry it did. It occurred as parliamentarians were being dispersed to either side of Wellington Street in the Confederation Building, the Victoria Building, the East Block, and so on.

The parliamentary cohesion that used to exist has disappeared completely. There is no longer any importance attached to his presence in the House of Commons or the Senate. His role is not taken seriously. Look at what goes on every day in the Senate. How many senators are present for Royal Assent? This is unbelievable; yet this is the culmination of the entire legislative process.

When the Catholic Church inaugurated its famous reform with Vatican II — our former colleague Jean Le Moine, may he rest in peace, likened it to a *Reader's Digest* reform. Not many years later, church attendance fell off. Why? Because the Church's mystique had been dealt a death blow, because its symbolism had been eliminated. It is all very fine and well to use everyday language for the liturgy but symbolism has been eliminated in the process.

Today, we are being asked to do much the same with this bill. It will eliminate symbolism and give us carte blanche to be more frequently absent from this place, where we have a duty to perform. I am opposed to this bill. We do not need a measure to diminish its importance, but rather an initiative to enhance it. What would prevent us from inviting recipients of the Order of Canada, of Decorations for Bravery, to attend the Royal Assent ceremony and the reception afterwards in order to meet the Queen's representative? This is the direction in which we should be moving, and not in the direction of dilution, erosion and concealment. That is all I will say. I will not be supporting this bill.

[English]

Hon. Marcel Prud'homme: Honourable senators, I do not want to kill the debate; I only wish to participate next week. However, if an honourable senator wishes to participate in the debate today, I can ask a colleague to second my motion to adjourn the debate under my name until next week. I promise to speak to this matter next week.

Hon. Dan Hays (Deputy Leader of the Government): Honourable senators, Senator Cools has a question and I should like to make an intervention, but I do not wish to interfere with questions. Perhaps we could then go to Senator Prud'homme for his intervention.

Hon. Anne C. Cools: Honourable senators, I have a question that I wish to put to the Honourable Senator Corbin. He articulated clearly his position, and I think it is widely supported.

The Hon. the Speaker pro tempore: Honourable Senator Cools, I regret to interrupt you, but the time allotted for Senator Corbin's intervention has expired.

Senator Corbin, are you asking for leave to continue?

Senator Corbin: Honourable senators, I seek leave to extend my time in order to answer any questions in regard to my intervention.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Cools: I am informed that the governors general are willing and desire to appear at Parliament more often — in the Senate, as they are not able to appear in the House of Commons — to provide for Royal Assent themselves. If that is true, one must wonder why they are being so discouraged.

Senator Corbin obviously has done some research on the subject matter. What has he heard on this subject?

Senator Corbin: Honourable senators, what Senator Cools has said is news to me. I am not aware of anything along those lines.

On motion of Senator Prud'homme, debate adjourned.

• (1430)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Milne, for the second reading of Bill S-9, to amend the Criminal Code (abuse of process).—(Honourable Senator Cools).

Hon. Anne C. Cools: Honourable senators know that I have studied a terrible and pernicious heart of darkness that has developed in our court system, being the use of false accusations in civil justice. This is the mischief of litigating parties, usually mothers, suddenly within the context of divorce and within child custody proceedings falsely accusing the other party, usually fathers, of the sexual abuse of their own children.

These false allegations are often made with the overt or covert complicity of their lawyers. They are a lethal weapon in the business of parental alienation. They are a tool for achieving sole custody of children and creating fatherlessness.

Bill S-9 addresses the serious social and legal problems surrounding the employment of false accusations by parties and their counsel as an instrument to defeat adversaries in court proceedings. It would enact the principle that such willful use of false accusations in civil justice is an abuse of process. Bill S-9 would amend the Criminal Code, Part IV, entitled "Offences Against the Administration of Law and Justice," being sections 118 to 149. Particularly, Bill S-9 will amend that subset of these sections entitled "Misleading Justice" by adding two new sections, 135 and 135.1. Bill S-9 will make the willful use of false accusations in judicial proceedings an offence against the administration of justice, an offence of misleading justice, and will augment the other related sections, including perjury and the obstruction of justice.

Honourable senators, Bill S-9 had been Bill S-4 in 1996 and then Bill S-12 in 1998. Both bills passed second reading here unanimously and were referred to Senate committees for study, where they were when Parliament was dissolved in 1997 and prorogued in 1999. I spoke to Bill S-4 twice, on March 26 and on October 28, 1996. I spoke to Bill S-12 on March 26, 1998. In addition, on July 13, 1995, I also spoke on these false accusations in my inquiry on the Ontario Civil Justice Review and again on November 23, 1995, in my inquiry on the *Hill v. Church of Scientology* Supreme Court of Canada decision.

In addition, the 1998 Special Joint Committee of the Senate and the House of Commons on Child Custody and Access heard of countless cases of false accusations of child sexual abuse against parents and grandparents in civil justice in divorce and custody cases.

Honourable senators, on May 20, 1998, a witness, psychologist Dr. Brian Hindmarch, appeared before the special joint committee. Speaking of false accusations of child sex abuse against good fathers, Dr. Hindmarch said at page 26:57 of the committee proceedings:

In the majority of the cases where an allegation of sexual abuse arises in the context of an open custody assessment, you have a father who has never had any history of sexual aberration...and has never been in trouble with the law or anything else. In the context of an acrimonious custody battle, he is then accused of sometimes the most heinous and rarest, from a psychopathological perspective, of sexual abuse allegations.

In his written submission of March 10, 1998, to the committee, to which he referred in his May 20 testimony, Dr. Hindmarch wrote at page 2:

Suffice it to say that while one must err on the side of caution when assessing such allegations in the context of custody/access disputes, research has shown that the vast majority of these allegations prove ultimately to be false. Parents continue to raise what are often the most preposterous of sexual abuse allegations against their ex-spouses, in sworn Affidavits and with the full support of their solicitors...However, there should be some means by which more common sense and sensitivity could be injected into these situations by lawyers.... In order to "win", there is a propensity to enshrine on paper and for the public record, issues and allegations which, when read later, no doubt are psychologically traumatic to the children involved. The bland acceptance of such inflammatory material by lawyers is unacceptable. A heightened level of sensitivity...attention

to the principle of the child's best interests...should be stressed in the legal profession.

In his testimony, Dr. Hindmarch went directly to the important question of lawyers' involvement in false accusations within divorce and child custody proceedings. He told the committee at page 26:53:

Lawyers often will allow or encourage sometimes the most inflammatory of allegations to be included in affidavits.

Honourable senators, Bill S-9 addresses the role of lawyers in the use and advancement of false allegations in civil justice by creating three new offences in the Criminal Code. It would make it an offence for counsel, that is lawyers, in judicial proceedings: first, to make public statements outside the tribunal that are known by that counsel to be false or that counsel has failed to take reasonable measures to ascertain were false; second, to institute or prosecute proceedings known by that counsel to be brought primarily for the purpose of intimidating or injuring another person; or, third, to wilfully deceive or to knowingly participate in deceiving the tribunal or court or wilfully presenting or knowingly relying on false, deceptive, exaggerated or inflammatory documents, whether or not under oath.

Bill S-9 will cover those unsworn court documents that lawyers call pleadings. Pleadings include statements of claim, statements of defence, notices of motion, et cetera, and are court documents which though vital to court proceedings are not, as are affidavits, sworn under oath and therefore are not subject to perjury provisions, being section 131 of the Criminal Code and the related offence against justice. The integrity of such documents, pleadings, have relied on solicitors' and courts' privileges and lawyers' honour, and consequently they have not been buttressed by Criminal Code prohibition. The process has relied on confidence that lawyers, as officers of the court, have a duty to truth and integrity and on confidence that lawyers on their honour alone would not use court proceedings for unjust or dishonorable purpose. Bill S-9 focuses on this and lawyers' role in developing court documents, court defence and court strategy in cases of false accusations within judicial proceedings.

Honourable senators, Bill S-9 creates no new standard for lawyers or imposes no new burdens. It supports the ancient standard of honour, integrity and ethics in the conduct of court proceedings by creating a criminal offence. Bill S-9 will defend the ancient standard of lawyers' honour as described in the lawyers' "Rules of Professional Conduct." The perjury provisions of the Criminal Code are insufficient and inadequate because many of these false allegations are not made under oath but are made in pleadings which, as civil justice proceedings, are privileged and are shielded. Given that these false accusations are mostly made in civil proceedings, such as divorce and child custody, they are submitted to a lower standard or burden of proof than if they were made in criminal proceedings. Interestingly, most, though not all, of these false allegations in custody cases have diligently, even strategically, avoided criminal process to avoid the higher standard of proof.

Honourable senators, previously in speeches here I had discussed the 1995 Civil Justice Review of Ontario, co-chaired by Justice Blair. The Civil Justice Review's first report had a chapter entitled "Focus on Family Law," which raised the question of lawyers. Justice Blair said, at page 272:

Concern and frustration were expressed about the number of allegations made in affidavits that were not capable of being substantiated in any way.

• (1440)

He continued:

Lawyers were criticized for their drafting of lengthy, damaging, and sometimes unsupportable affidavit material.

Justice Blair's report concluded that the civil justice system in Ontario "is in a crisis situation."

Honourable senators, I had also described the 1996 Manitoba Civil Justice Review Task Force, chaired by Manitoba MLA David Newman. The Civil Justice Review Task Force Report's Chapter "Court of Queen's Bench Family Division" addressed also false accusations of child sexual abuse in civil justice. The report said, at page 20:

The Task Force heard horror stories about the traumatic impact on the accused person, on the immediate family and children affected by malicious false allegations designed to achieve sole custody, prohibit or restrict visiting privileges, and to punish the other parent.

The report added, at page 20:

When false allegations are discovered, strong and effective sanctions are necessary to discourage such conduct....Lawyers, of course, must never assist in making false allegations and should be on guard against becoming the tool or dupe of an unscrupulous client.

The role of lawyers is raised yet again. That last statement, honourable senators, also warns that judges and courts should also be on guard against becoming the tool or dupe of unscrupulous counsel.

Honourable senators, this heart of darkness, this inhuman, aggressive hurling of false accusations of child abuse, the "weapon of choice" during child custody proceedings, is diabolical. It is the Devil's own work. For those, mostly fathers, broken by false accusations of child sexual abuse of their own children, it is ungodly. For a parent to be accused falsely of something so terrible is soul-destroying. Such false accusations have been used routinely in recent years since about 1987 by one parent, usually a mother, to injure and damage the other parent, usually a father, for the purposes of destroying the other parent and destroying their relationship with the child. They have been directed to obtaining sole custody of the child by imposing insuperable and inhuman burdens on the other parent. These burdens are emotional, legal, and financial. This phenomenon is

the most recently identified form of child abuse and child maltreatment. It is also a new form of civil molestation and civil harassment, as the courts and legal process are enlisted as instruments of injury, malice and deceit during civil litigation. The enormous financial burden borne by those personally affected and by the public treasury and taxpayer is overwhelming. The emotional and psychological consequences to the affected children is incalculable and unspeakable, and such child abuse shames us all.

Honourable senators, I have brought many cases of false allegations of child abuse in divorce and custody to the attention of the Senate. I have applied the highest test. That highest test for me is a finding or a confirmation by a judge in a court that the allegations are false or groundless. I bring to the Senate cases where findings have been made by judges. There are numerous cases that have never been adjudicated, but these cases that I bring today have been. However, I add that all false accusations in civil justice are pernicious, even if the impugned cannot financially or emotionally sustain the adjudication, and the issue is compelling senators' investigation. I have already cited several of these judgments and quoted the judges in my several speeches here. I shall enumerate those 10 judgements that I have already quoted. They are as follows.

From British Columbia, I have quoted three judgements: by Justice Rowles, 1990, in *P.(G.L.) v. P.(J.M.)*, B.C. Supreme Court; by Justices McEachern, Legg, Hollinrake, 1992, in *Lin v. Lin*, B.C. Court of Appeal; by Justice Preston, 1992, in the case *Metzner v. Metzner*, B.C. Supreme Court.

From Manitoba, I have quoted two judgements, being: by Justice Carr, 1992, in *Plesh v. Plesh*, Court of Queen's Bench (Family Division); and by Justice Jewers, 1997, in *Margaret Pott v. Winnipeg Child & Family Services & James Pott*, Court of Queen's Bench.

From Ontario, I have quoted four judgements, they being: by Judge Dunn, 1987, in *Children's Aid Society of Durham Region v. Dorian Baxter and Sharon Baxter*, Provincial Court (Family Division) of Ontario; by Justice Somers, 1994, in the Dorian Baxter case, *B(D) and B(R) and B(M) v. Children's Aid Society of Durham Region and Marion Van den Boomen*, Ontario Court of Justice (General Division); by Justice Wallace, 1996, in the Wayne Allen case, *Allen v. Grenier*, Ontario Court (General Division) Family Court; by Judge Dunn, 1998, in the Barbosa case, *L.B. v. R.D.*, Ontario Court of Justice (Provincial Division).

Finally, from Saskatchewan, I have quoted one judgement, by Justice Dickson, 1994, in *Paterson v. Paterson*, Court of Queen's Bench. This case had included false child sexual abuse allegations against the father arising from the mother's false memory. All 10 judgements were adjudicated by judges — some excellent judges. In all 10 judgements, false accusations were made by mothers against fathers, eight involving false accusations of child sexual abuse and two involving false accusations of child physical abuse. I shall now repeat my previous quotations from three of these judges, being Justices Somers, Carr, and Preston.

Honourable senators, first: Ontario's Justice Somers in the case of Reverend Dorian Baxter, an Anglican minister. His wife falsely accused him of sexually abusing their two daughters. The Children's Aid Society believed and supported her. Reverend Baxter was exonerated and awarded custody of the girls. After 10 years and hundreds of thousands of dollars, he was successful in his suit against the Children's Aid Society and their worker Marion Van Den Boomen. In that 1994 judgement in favour of Reverend Baxter, Justice Somers stated:

...one can certainly understand the frustration the father must have felt in this case attempting to deal with allegations against him which were untrue and which he regarded as utterly repugnant, and with a bureaucracy that treated him with ill concealed contempt....as I have said I do believe that much of the damage sustained by the Plaintiff was as a result of the machinations of his former wife...

About the testimony from an experienced child abuse professional, Justice Somers said:

Ms. Chisholm indicated that the experience has been for some time that sexual assault allegations made by a mother against a father in custody disputes are very prevalent nowadays and indeed have become what she called "the weapon of choice".

Honourable senators, my second repeat quotation is from Manitoba's Justice Carr in *Thomas Plesh v. Wendy Ellen Plesh*. Justice Carr stated:

It is patently obvious from the evidence and the manner in which it was given that the mother...set out to punish the husband....The only ways she knew of were to deprive him of property (she took all of the furniture) and their son. Her motivation was revenge, pure and simple.

Justice Carr continued:

...she cried child abuse and continues to make the allegation to this date. In so doing she has nearly destroyed her husband and his relationship with their child. I conclude that she never believed that their son had been abused, not when she reported the abuse and not now....and there was not then and is not now a shred of evidence to suggest it!

Honourable senators, my third repeat quotation is from B.C.'s Justice Preston's judgement in *Martha Metzner v. Dr. Louis Metzner*, a case of false allegations by a mother against a father, not of child sexual abuse but of child physical abuse. Justice Preston stated:

Mrs. Metzner was interviewed by Sergeant Armstrong of the West Vancouver Police Department on January 8, 1990. The officer's notes indicate that she told him that there was no history of abuse and that Dr. Metzner had never hit her or the children. His notes also contain the entry "Martha said lawyer told her that this would be enough to get him out of the house because he wouldn't leave."

Justice Preston's words raise yet again the role of lawyers in these matters.

Honourable senators, I have 39 more judgements in adjudicated cases of false allegations of child abuse, mostly child sexual abuse and a few of physical abuse, that I shall place before the Senate today. I shall list them as before: by province, judge, year, and by judgement. They are as follows:

From Alberta, one judgement, being by Justice Nash, 1997, in *Spurgeon v. Spurgeon*, Court of Queen's Bench.

From British Columbia, 15 judgements: by Justice Finch, 1987, in *Rodgers v. Rodgers*, B.C. Supreme Court; by Justices McEachern, Taylor and Wood, 1990, in *Bartesko v. Bartesko*, B.C. Court of Appeal; by Justice van der Hoop, 1991, in *Lin v. Lin*, B.C. Supreme Court; by Justice Coultas, 1991, in *M.(H.B.) v. B.(J.E.)*, B.C. Supreme Court; by Justice Coultas, 1992, in *Kobylanski v. Kobylanski*, B.C. Supreme Court; by Justice Newbury, 1993, 1995, 1996, three judgements in *C(G.E.) v. C(M.B.A.)*, B.C. Supreme Court; by Justice Edwards, 1995, in *C.(R.M.) v. C.(J.R.)*, B.C. Supreme Court; by Justice Shabbits, 1995, 1996, two judgements in *Dawson v. Stalker*, Supreme Court of B.C.; by Justice Cooper, 1996, in *Hillstead v. Hillstead*, Supreme Court; by Master Powers, 1996, in *Huyghue v. Huyghue*, B.C. Supreme Court; by Justice Sigurdson, 1996, in *James v. Turner*, B.C. Supreme Court; by Justice Melnick, 1996, in *Scheffer v. Scheffer*, B.C. Supreme Court.

From Manitoba, three judgements: by Justice Carr, 1998, in *Colquhoun v. Colquhoun*, Court of Queen's Bench Family Division; by Justice Guertin-Riley, 1998, in *McKenzie v. McKenzie*, Court of Queen's Bench; by Justice Allen, 1999, in the Antonovich case, *Winnipeg Child & Family Services v. L.M.T. & A.A.A.*, Court of Queen's Bench.

From Nova Scotia, one judgement by Judge Legere, 1997, in *W.A.H. v. S.M.L.*, Nova Scotia Family Court.

From Ontario, 14 judgements: — the hotbeds seem to be Ontario and British Columbia — by Justice Thompson, 1987, in *Demeester v. Demeester*, Supreme Court of Ontario; by Justice Fitzgerald, 1990 in *Scott v. Scott*, Ontario Supreme Court; by Justices Tarnopolsky, Finlayson, Abella, 1992, in *M.(B.P.) v. M.(B.L.D.E.)*, Ontario Court of Appeal; by Judge Webster, 1993, in *W.(K.M.) v. W.(D.D.)*, Ontario Court of Justice (Provincial Division); by Justice Webber, 1994, in *R. v. Robert A. Clark*, Ontario Court of Justice (General Division); by Judge Magda, 1995, in *A.N. v. A.R.*, Ontario Court of Justice (Provincial Division); by Justice Wallace, 1995, in *Jenkins v. Farrauto*, Unified Family Court; by Justice Killeen, 1995, in *Lindsay v. Lindsay*, Ontario Court of Justice (General Division); by Justices Austin, Laskin, Moldaver, 1996, in the Baxter case, *B(D) and B(R) and B(M) v. Children's Aid Society of Durham Region and Marion Van den Boomen*, Court of Appeal of Ontario; by Justice Aston, 1996, in *B.(B.J.A.) v. R.(K.J.)*, Ontario Court of Justice (General Division) (Family Court); by Justice Wilson, 1996, in *M.K. v. P.M.*, Ontario Court of Justice (General Division); by Justice Czurtin, 1997, in the Wayne Allen case, *Allen v. Grenier*, Ontario Court (General Division) Family Court; by Justice Fitzgerald, 1997, in *R. v. Viinalass*, Ontario Court of Justice; by Justice Bellamy, 1999, in *Jepp v. Brandon*, Ontario Superior Court.

From Quebec, two judgements: by Justice Gomery, 1991, in *Stuart-Mill v. Cher*, Quebec Superior Court; by Justice Marx, 1996, in *M.B. v. Y.M.*, Quebec Superior Court.

And finally, from Saskatchewan, three judgements: by Justice Dielschneider, 1991, *Philipowich v. Philipowich*, Court of Queen's Bench; by Justices Cameron, Wakeling, Lane, 1992, in the Philipowich case again, *P.(K.L.) v. P.(P.M.)*, Saskatchewan Court of Appeal; by Justice Hunter, 1999, in *Miket v. Miket*, Court of Queen's Bench Family Law Division.

• (1450)

Honourable senators, that is a mouthful to speak and that is a large number of cases. Of these 39 judgments, all are in the context of divorce, separation and custody proceedings; 31 deal with false child sexual abuse, eight deal with false child physical abuse and most are by mothers against fathers. Honourable senators, that may have been a mouthful, but what I have cited here is nearly 50 cases of judgments where a judge has said these allegations are false. I think it a shame, a tragedy and a crisis.

Honourable senators, I shall now quote judgments in four of these last 39 cases just listed. In the Alberta case of *Leslie James Spurgeon v. Barbara Leah Spurgeon*, the father was falsely accused by the mother. This is a classic case of access denial, parental alienation, and false accusations of child sexual abuse against the father. About a letter from mother to father, Justice Nash said, at paragraph 21:

Those paragraphs, in my view, illustrate what is often referred to as an example of parental alienation. The girls are 10 and 12 years old. By involving them in the on-going conflict between their parents, Mrs. Spurgeon is involving them as her allies in the position that she had taken regarding access.

Madam Justice Nash continued, at paragraph 22:

Another concern that I have is the apprehension of bias on the part of the Department who investigated the allegations of sexual assault. Mr. Spurgeon was cleared by the polygraph which, I appreciate, is not admissible in a Court of law. There was no medical evidence supporting these allegations.

These judgments often mention the role of the child welfare protection agencies.

Honourable Senators, next is Justice Coultas of British Columbia in *George Juris Kobylanski v. Lorrie Kathleen*

Kobylanski, a case of a mother falsely accusing a father repeatedly. The mother abducted the child and fled the province with the child to a women's shelter in Yellowknife, N.W.T. Women's shelters is also a recurring theme. Justice Coultas said at page 4:

Mrs. Kobylanski deposes that she left the Province because Stephanie had disclosed that her father sexually abused her. Allegations of the father's sexual abuse are not new. In my March 4th Reasons I recited the history of these earlier allegations. They were first made just prior to a Hearing to enforce an order for overnight access, and, as a consequence, overnight access was denied Mr. Kobylanski.

Justice Coultas added, at page 5:

Although I did not make a specific finding that the Petitioner had invented these allegations, I thought it highly probable that she did so...

Justice Coultas continued, at page 12:

In spite of her deviousness and irresponsibility I continue to think that it is in the child's best interest to be, for the moment, with her mother, for the child is bonded primarily with the mother. I do not believe that Mr. Kobylanski has ever abused his child sexually. He has fought tenaciously for access rights because he believes that he can be a good influence in the child's life.

Honourable senators, next is Justice Newbury in the case of Gary Christopherson being *C.(G.E.) v. C.(M.B.D.)* in British Columbia. This was a case of a mother's false accusations of child sexual abuse against the father, a custody change from mother to the father, and then, finally, the mother and new mate kidnapped the children to Europe. This is three separate judgments by the same Justice Newbury, being March 19, 1993, August 15, 1995, and January 4, 1996. On March 19, 1993, Justice Newbury said, at paragraph 95:

...I find that there is no real risk that Mr. C. has abused or will abuse E. or K. in the future. The case against him can only be described as flimsy at best and while it may not be a deliberate fabrication, it is the product of Ms. D.'s hostility and suspicion.

In the second judgment, two years later on August 15, 1995, Justice Newbury said, at paragraph 50:

In my earlier judgment, I concluded that there was no 'real risk' that Mr. C. had abused or would abuse E. or K in the future. I reach the same conclusion again concerning the latest allegation, but with even greater confidence.

In the third judgment, a year later, on January 4, 1996, about the mother's contempt of court, the integrity of the court and the children's best interests, Justice Newbury said, at paragraph 13:

...the results of those acts of contempt have taken their course — the custody of the children has been changed. This is not to imply that the custody of Ellen and Kirsten was changed in order to punish Ms. Durville's conduct. From the parties' points of view, however, little would now be served by exacting a penalty against Ms. Durville for these acts. Accordingly, although I conclude that Ms. Durville's conduct does constitute contempt of court, I decline to impose any penalty on the basis that remedial action is now unnecessary, and punishment would be ineffectual at this late date.

As of last fall, Mr. Christopherson did not know the whereabouts of his children. Even though he has custody, even though there is a court order against either parent removing the girls from the province without the other's consent, Ms. Durville kidnapped them to Europe. He has not seen them for two years, is impoverished emotionally and financially, and can only afford a bicycle to commute to work.

Honourable senators, next is the 1996 B.C. judgment by Justice Shabbits in *Daniel Alexander Dawson v. Samantha Stalker*, a case of false allegations of child sexual misconduct by mother against father within a custody and access proceeding. Justice Shabbits stated, at page 11:

...the very allegation seems improbable in the extreme.

The previous year, in 1995, Justice Shabbits had heard the same couple in another custody and access proceeding. About Ms. Stalker's mean actions, supported by her belief that the child was her property, Justice Shabbits said, at page 12:

The evidence satisfies me that Ms. Stalker has regarded Corey as hers to do with as she wishes. She has adopted a regular pattern of refusing to abide by court orders in respect of access.

Justice Shabbits continued in this 1995 judgment, at page 19:

The evidence in front of me is that after November, 1993, Ms. Stalker has continued to ignore and flout orders of the court. Judge Collver also said this: '...Samantha Stalker is the nastiest litigant I have ever encountered'.

About Ms. Stalker, in the 1995 judgment, Justice Shabbits continued, at page 20:

She gave the impression generally, and occasionally said, that the proceedings were an inconvenience to her, and an imposition. She ignored a direction of the court that she answer a specific question, seemingly certain that no meaningful sanctions would flow from that.

• (1500)

Honourable senators, the Special Joint Committee on Child Custody and Access heard from many witnesses about false

accusations of child sexual abuse within child custody and access disputes. Heidi Polowin, Director of Legal Services of the Children's Aid Society of Ottawa-Carleton, testified before that committee on May 6, 1998. At page 22:54, she said:

Of every five cases that the CAS investigates, three of those cases involve custody and access matters, and of those three, two are found to be unsubstantiated.

I turn now to the question of lawyers' involvement in the advancement of these false allegations. I have laid before honourable senators almost 50 judicial findings that the allegations were false. There is a crisis in civil justice and in the practice at bar. That these particular false allegations seemingly arise in the context of separation and divorce and within civil justice proceedings of child custody points to lawyers. Today in civil justice, almost all documents, even sworn affidavits, are written and prepared by lawyers. Lawyers are both practitioners at the bar and also officers of the court. As officers of the court, they are entrusted with privileges whose very purpose is the protection of truth and the securing of justice. These are ancient and important privileges. Their maintenance, protection and proper use should be the goal and duty of every lawyer.

The heart of the problem in this civil justice crisis is the misuse of these privileges that are entrusted to lawyers as officers of the court. These privileges, both the absolute and the qualified privileges, shelter lawyers from criminal and civil liability, even personal responsibility, for unsworn statements made within court documents and court proceedings which are false. These privileges originate in Her Majesty's Royal Prerogative as the dispenser of justice and guardian of subjects and are bestowed upon solicitor-barristers when they are admitted as Officers of Her Majesty's Court. Officers of the court hold these privileges in trust from Her Majesty as the Fount of Justice. Privileges are conditional grants from the sovereign to protect the sovereign's interest in justice and her subjects' right to the sovereign's justice.

These privileges are part of the sovereign's protection for the processes of discovering truth and securing justice itself. Her Majesty's privileges cannot be enlisted to defeat truth or justice or to deceive her courts.

There is an additional question, being the relationship between officers of the court, use of these privileges and the welfare of children. In short, what obligation do lawyers, as officers of the court, owe to the children of the subjects of Her Majesty when those lawyers encounter those children in court proceedings, either as children of their clients or as children of their adversaries in civil or criminal proceedings? It becomes more complex when asked in concert with obligations imposed by the provincial child welfare acts on professionals. For example, Ontario's Child and Family Services Act, section 72, imposes a duty on professionals to report suspicions of or knowledge of children suffering abuse. Interestingly, the obligation of lawyers to report is different from other professionals. Section 72(8), described as "Exception: solicitor client privilege," states:

Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

Honourable senators, Bill S-9 imposes no new standard on lawyers. Bill S-9 affirms the standard of the barristers' current code of ethical conduct. Bill S-9's language borrows from the language of the Law Society of Upper Canada's Rules of Professional Conduct. Bill S-9 elevates that same standard, a largely informal one, to law. Bill S-9 codifies these standards as statute and gives them the force of law.

Bill S-9 was inspired by the Reverend Baxter case and the *Hill v. Church of Scientology* case. The Church of Scientology case lasted eleven years and cost countless millions of dollars. In September 1984, the Church of Scientology and its lawyers made some serious and unfounded allegations against Casey Hill, the Crown prosecutor associated with investigating the Church of Scientology. They instituted contempt of court proceedings seeking to imprison him.

A few months later, Justice Cromarty ruled that the allegations of the Church of Scientology against Casey Hill were untrue and unfounded. This well-reported case is known for the mean-spiritedness of the Church of Scientology and some of its lawyers and their persistent campaign to defame a lawyer, Crown prosecutor Casey Hill. Their persistent and unconscionable repetition of untrue accusations against Casey Hill, despite Justice Cromarty's judicial determination to the contrary, are well reported.

At the Ontario Court of Appeal, Justices Griffiths, Catzman and Galligan in their 1994 decision found for Casey Hill, saying:

It continued with unfounded contempt proceedings against Casey Hill when it knew, no later than September 27, 1984, that its principal allegation was untrue. It hid its knowledge of the falsity of that allegation from the court...

The 1995 Supreme Court of Canada judgment upheld the Ontario Court of Appeal's decision in Casey Hill's favour and awarded him the largest damages ever in Canada. In that judgement, Justice Cory spoke about one counsel's "precipitous and very aggressive letter to the Solicitor General of Ontario." About another letter, to Casey Hill himself, leading to the accusations against him, Justice Cory said:

It should be noted that at the time this letter was written, Clayton Ruby was a Bencher of the Law Society and Vice-Chairman of the Law Society's Discipline Committee.

The letter implied that there could be disciplinary proceedings brought before the Law Society of Upper Canada and that a contempt action might be instituted.

Honourable senators, Bill S-9 is a parliamentary response to a modern pathology. While I strongly believe that lawyers' privileges must be upheld because they are important to the administration of justice, it becomes clear that some correction is needed. Undoubtedly, the majority of lawyers — and I have many friends who are — are honest and ethical professionals. As always, it is the small minority, the deviants, who abuse process and who need sanctions. The Criminal Code is all about the deviant minority, not about the honest majority. Parliament has a duty to protect the children who are the subject of these ugly and inhuman proceedings, and to ensure that sharp practice is discouraged. Parliament must use the Criminal Code to limit the misleading of justice by codifying the deceit of the courts by some of its officers and declare that the deceit of the court can form no part of any duty by any solicitor to any client. Parliament must enact that such activity is an offence against the administration of justice.

Honourable senators, I should like to thank you for your indulgence. Perhaps there was a fair amount of tedium in my speech. As the lawyers around here know, it is no simple task to discover, glean, peruse and review 50 or 60 judgments and then to crystallize the findings and list them in a particular order. Nevertheless, honourable senators, I felt that it was important that these findings form part of the record of this place.

In addition to that, honourable senators, on a personal note, this subject matter has touched me very deeply. I have talked to so many of the men and women who have been afflicted by this subject matter. One woman, whose case I mentioned, was the subject of false allegations. She is one of the women who was accused by her father. It was a nasty case of parental alienation. That woman has been able to regain access to two of her four children. Two of them remain quite hostile and are alienated from her. That woman came before the Special Joint Committee on Child Custody and Access. She was recently invited by the Americans to work on a full-time basis for the Parental Alienation Syndrome Foundation in Washington, D.C.

• (1510)

Honourable senators, Bill S-9 has been before you on several prior occasions. I know that I have submitted senators to some rigorous tedium in the recitation of those particular cases. However, I honestly believe that there is a terrible pathology that has crept into our system and that we should do all in our power to attempt to study this matter with an eye to excising it.

I have held consultations on this question. I have met with hundreds of people on many different occasions and in many different cities in this land. I urge all honourable senators to give this matter their just, studied and practised consideration. I sincerely believe that the children of this country deserve nothing less. These children are being destroyed, as are their mothers, fathers, grandparents and the entire extended family.

Hon. Pierre Claude Nolin: Honourable senators, Senator Cools has raised an interesting subject. As a lawyer, I want my colleagues to respect our serment d'office. In her speech she basically focuses on civil cases when the lawyer is falsely accusing someone of something. All those cases cited focus on criminal action or a series of acts committed or supposedly committed by someone who could bring a criminal accusation. Every day lawyers write all kinds of allegations in their statements of claim. It is up to the civil judge to decide whether or not he believes the evidence sustains the allegations.

If the honourable senator wishes to restrict her amendment to the Criminal Code, to false criminal attitude, I would understand it. I would respect that and I would probably support that. However, the way I read her amendment to section 135 of the Criminal Code, she is including all statements made by a lawyer in the written procedure in civil court.

Does that specific amendment to the Criminal Code address all statements made by lawyers, including those made in writing?

Senator Cools: There are a couple of questions that I should like to answer first.

First, I have not raised the problem as it exists within criminal proceedings.

Senator Nolin: I know that.

Senator Cools: Honourable senators, my interest has emerged as a result of my interest in divorce and the devastation that has been occurring to families. Yes, my bill would have application to criminal process, but my heart, in terms of my research, has been centred around civil justice proceedings.

Senator Nolin is a lawyer and knows of the difficulties of which I speak. He would be well aware that a lower standard of proof is required in an accusation contained in documents in a civil proceeding. In these instances, accusations are made within statements of defence, here, there, and everywhere. They resist criminal prosecution and being subjected to the criminal justice system. I will provide an example. I know of a particular instance where a father was so accused. He would go to the police and say, "investigate me." This is what is happening. In that particular instance, the accusing spouse had a borderline personality disorder. The woman was not interested in having her accusations submitted to the higher standard of the criminal court.

I do not believe that this is a general practice and that every lawyer behaves in such a fashion. However, this problem seems to have been mushrooming within civil justice proceedings, not in the criminal courts, particularly within the context of divorce and separation.

Essentially, I am attempting to expose only those individuals. Not every lawyer has something to fear, because the majority do

not behave in that manner. Perhaps I can be helpful by putting on the record exactly what the bill would do.

The Hon. the Speaker *pro tempore*: Honourable Senator Cools, I regret to inform you that your speaking time has expired. Are you seeking leave to continue?

Senator Cools: Yes, I am seeking leave to continue.

The Hon. the Speaker *pro tempore*: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Cools: I thank honourable senators for their indulgence.

The provision that I am proposing to place into the Criminal Code, 135.1(2), would say:

Every person is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years who, as counsel in any judicial proceedings,

(a) wilfully deceives or knowingly participates in deceiving the tribunal or other body legally authorized to conduct the proceedings, or

(b) wilfully presents or knowingly relies upon a false, deceptive, exaggerated or inflammatory document, whether or not under oath.

What we are dealing with here is what may be described as a "criminal intention."

I encourage honourable senators to review this legislation very closely. What I am attempting to impress upon you is that we simply cannot sit still and leave these matters to a judge. In the case of, for example, Father Baxter, it took 11 years in the courts. No citizen in this land has the financial ability to be able to sustain that kind of ongoing attack.

In the last few years, there has been more awareness as a result of the debates here in the Senate and as a result of our work on the joint committee. There is more knowledge and awareness of this subject and many more judges are on top of the matter. However, there is still much to be done.

Parliament must not ignore this terrible travesty. As a lawyer, the honourable senator is concerned that lawyers may be caught in the net. I disagree. Bill S-9 is not attempting to alter the status quo other than by providing a prohibition and a censure in instances where it can be proven that the individual wilfully and deliberately acted in the manner described.

I could cite many cases. One particular case involved Satanic ritual abuse and recovered memory where the accuser literally shocked the lawyer. Most lawyers who looked at the case said they would not touch it.

Honourable senators, if that is not the best approach, feel free to amend the bill to make it better. My intention here is to say that this Parliament of Canada, this Senate, cannot ignore this abuse, this heart of darkness then turn around and say in the next breath, "we care about children." What I ask of Senator Nolin is judicious consideration and study. If he can show me a better way to write this bill, I will be happy to take his advice.

• (1520)

Senator Nolin: My question is about the intent. If my honourable friend is restricting her amendment to the case of a lawyer who alleges that Mr. or Mrs. "X" has committed an infraction, knowing that the accusation is not true, then we should study that. However, she is proposing now, according to my reading, something much larger. She is saying that if a lawyer makes a statement publicly or writes a statement and it becomes evident that the statement is not true, he can be charged.

Senator Cools: No.

Senator Nolin: That is what the honourable senator's amendment states. That is why I am trying to understand the precise intent of her amendment.

Senator Cools: The precise intent of the bill goes to the question of the wilful and deliberate attempt to deceive the courts. Many of these cases fall by the wayside because the individuals who indulge in that sort of thing are perfectly aware that they will never come to adjudication. If one looks at these files, one finds that under cross-examination the individuals start to say, "I am not sure. I really do not remember." They retreat.

Senator Nolin: I agree.

Senator Cools: The problem is pernicious. One has to look at those hundreds of cases. Many grandparents are in that position. They simply cannot finance the abiding nature of the litigation.

I understand the Honourable Senator Nolin's concern, and I think my bill addresses that. I am attempting to address the mischief, as the old masters used to say. The evil or the mischief that the bill attempts to correct is the deliberate and wilful attempt to deceive the courts for the purposes of injuring another person. Part of Bill S-9, proposed section 135.1 talks about counsel who institute or prosecute proceedings that they know are brought primarily for the purpose of intimidating or injuring.

It will be an interesting debate and discussion on how to prove some of this subject matter, but, believe you me, honourable senators, when I use the phrase "heart of darkness," it is a heart of darkness.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, it is clear that our colleague Senator Cools has done a great deal of research into this matter and has brought forward a lot of interesting data. We will want to study today's Hansard and also to discuss this obviously important proposal to amend the Criminal Code.

On motion of Senator Kinsella, debate adjourned.

STATISTICS ACT NATIONAL ARCHIVES OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Lorna Milne moved the second reading of Bill S-15, to amend the Statistics Act and the National Archives of Canada Act (census records).

She said: Honourable senators, the purpose of Bill S-15 is to allow for the public release of post-1901 census records. The bill is intended to make reasonable and workable amendments to both the Statistics Act and the National Archives of Canada Act to allow for the transfer of the census records from Statistics Canada to the National Archives of Canada where the records will be released to the public, subject to the Privacy Act.

I believe that Bill S-15 achieves an acceptable compromise of the concerns and goals expressed to me by the various interest groups involved — Statistics Canada, the National Archives of Canada, the Privacy Commissioner of Canada, genealogists, historians, medical researchers and the Canadian public.

There has been considerable debate surrounding the supposed promise of confidentiality that the Chief Statistician is presently honouring, the intentions of the government of the day, and the legal interpretations taken from all of this.

As the debate is encumbered with several diametric positions, I have undertaken to propose Bill S-15, which recognizes all the arguments and offers a solution to the debate, allowing Statistics Canada to uphold their promise of secrecy while deeming consent to have been given to the National Archivist to permit access by the public to utilize these vital research tools.

Honourable senators, I was first made aware of the situation in the summer of 1998 by a group of genealogists from the Upper Ottawa Valley. As someone who has used census records extensively for family research purposes, I can tell you from firsthand experience the imperative need for the census records from the 20th century to be released to the Canadian public. I ask honourable senators to reflect upon Canada during that time. Think about what the country has experienced since 1901 — the vast mass immigrations and migrations; the settlement of the western provinces; the wars; the change from an agricultural society and a natural-resource-based society to an industrial society; the altered economic conditions. That is what I thought about, when my roots from the Upper Ottawa Valley alerted me to the fact that a piece of Canadiana, the 1906 Western Census and subsequent census records, would never be seen by Canadians.

Clause 1 of the bill makes amendments to the Statistics Act by adding a new section after section 21. Under this new section, Statistics Canada would conserve the records while they are in the care of the department.

In addition to ensuring the conservation of these records, the bill requires the Chief Statistician to obtain the consent of the National Archivist of Canada before administering the destruction or disposal of any census records, including individual census returns, and ensures that this can only be carried out once all of the information has been transferred onto another recording medium. This proposed section also details when the transfer from Statistics Canada to the National Archives of Canada should occur, first, for population censuses taken under section 19 and agricultural censuses taken under section 20, and, second, all the population and agricultural census data taken prior to 1971.

Bill S-15 recommends 30 calendar years following when the census was taken but leaves the window open for the transfer to take place sooner if the two departments are in agreement.

For the pre-1971 records, the transfer is to occur before the expiration of two years after this section comes into force or at an earlier time agreed upon by the two departments. This is consistent with section 6 of the National Archives of Canada Act.

The solution I referenced earlier comes through changes the bill makes to the National Archives of Canada Act. It reaffirms that the census records will be transferred to the National Archives, as was clearly stated in the original bill but has been treated by Statistics Canada as an optional move.

Once the records are transferred to the care and control of the National Archivist, the Chief Statistician will no longer be responsible for the records. The information contained in the records and the release of the census records would then fall solely under the responsibility of the National Archives of Canada and the National Archivist.

• (1530)

Bill S-15 amends section 7 of the National Archives of Canada Act. Under Bill S-15, section 7.1 would recognize the permanent historic and archival importance of census records and thus the necessity to ensure the security of the permanence of these records through specifically prohibiting the transfer, destruction or disposal of the records unless all of the information is saved on an alternative recording medium.

Section 7.2 would recognize the promise of confidentiality. Once the records are in the control of the National Archivist, prior to 92 years after the census has been taken, the archivist could only disclose the information in the records to the Chief Statistician of Canada and persons authorized by order of the Chief Statistician under subsection 17(2) of the Statistics Act or as authorized by this section. After the 92 calendar years have elapsed since the census was originally taken, the National Archivist would provide public access to the records of the census. This does not touch any provision already providing access to the information under the Statistics Act prior to 92 years since the taking of the census. The access provided by the National Archivist after 92 calendar years would be subject to such reasonable terms and conditions as the archivist may

establish that are consistent with the purposes of the National Archives of Canada Act.

The last addition Bill S-15 makes to the National Archives of Canada Act would implement an objection process whereby the National Archivist accepts written objections from individuals who wish the information they submitted in the course of a census to remain confidential. The archivist will receive these written objections in the final year before the information would otherwise be released. Bill S-15 sets a number of requirements for those written objections. In addition to when it should be submitted, the objection must contain sufficient information for the archivist to locate the information and, in the opinion of the National Archivist, the disclosure of the personal information would constitute an unwarranted invasion of the privacy of the person to whom it relates. Upon satisfying these requirements, the archivist would not disclose the personal information referred to in the objection.

When 92 calendar years since the census was taken have elapsed, the archivist will make public all census records of individuals recorded in the census who have not made a valid objection to the archivist, who would, therefore, be deemed to have given irrevocable consent to public access to this information in the census.

Honourable senators, I have had numerous consultations, both verbal and written, on this piece of legislation with the Chief Statistician, the National Archivist, the Privacy Commissioner and others to try to arrive at a workable solution that would give genealogists and other researchers the access they require to these records, while making some concessions to the officials whose jobs are to protect the integrity of their departments. The bill before you has evolved from numerous drafts, countless discussions and extensive research. There is a considerable voice from the Canadian public that wants continued public access to these records, as they have always had. I am trying to represent that voice while appreciating the concerns of others. I know some of you here in this chamber share those concerns. It is my hope that this bill will be recognized as a legitimate and thoughtful approach to recognizing and protecting the rights of confidentiality, as promised in the 1906 regulations, while granting family and academic historians the access to these vital records that document 20th century Canada as no other source does. It will extend to all Canadians equally the same right to explore their personal history, as is presently enjoyed by the citizens of the province of Newfoundland and Labrador.

Honourable senators, I request leave to table over 500 electronically transmitted letters of support, e-mail, that cannot be recognized as petitions under our present rules and regulations. In substance, these e-mails are petitions to Parliament from residents of Canada, the United States, New Zealand, Australia, the United Kingdom, Sweden and Switzerland that I have received over the course of the past 12 months. The non-Canadian electronic petitions in this bundle of over 500 come from foreigners who are researching their Canadian family ties.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator LeBreton, debate adjourned.

IMMIGRATION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ghitter, seconded by the Honourable Senator Cohen, for the second reading of Bill S-8, to amend the Immigration Act.—(*Honourable Senator Grafstein*).

Hon. Jeremiah S. Grafstein: Honourable senators, what is the heart of this legislation? Turn back the boats. Turn back the boats. Empower the minister to turn back the boats.

Bill S-8, a private senator's public bill tabled by Senator Ron Ghitter on November 2, 1999, seeks to re-enact previous legislation which allowed the Minister of Immigration to direct that boats carrying illegal immigrants be turned back from Canadian waters.

On December 14, Senator St. Germain, in support of this bill, stated that this was meant to redress what he saw as a serious problem:

Now we are dealing with boatloads of people from China arriving on our West Coast, brought here by racketeers or human smugglers.

On the surface, this legislation seems to be a non-malevolent, rather innocuous, almost painless resolution to a difficult problem which is always a great media favourite and an irritant to many Canadians. Let me sketch quickly the background. This issue is not new to the Senate.

Back in August 1986 and again in July 1987, two ships arrived stealthily off the east coast of Canada and then secretly and covertly disembarked passengers who subsequently made refugee claims in Canada. There was at that time, senators will recall, a loud, mostly media-promoted outcry. The Conservative government of the day introduced emergency legislation in response to this so-called public outcry. Bill C-84, among other measures, empowered the Minister of Immigration with the authority to direct that boats be turned back from Canadian waters. During the parliamentary debates, senators may recall, there was fierce opposition to that bill in the Senate led by Liberal senators. A stand-off developed. This lasted several

months until a compromise was reached. The federal Conservative government relented and accepted a number of amendments, including the sunset clause, section 90.1, on the ministerial power to direct ships to be turned back from entering Canadian waters. Because of the sunset clause insisted upon by Liberal senators, section 90.1 was enacted on October 3, 1988, and ceased to be in force on July 1, 1989. In return, it was agreed that in Bill C-55, a wide package of changes introducing the basic structure of our current refugee determination process, had to be assented to during that same session of Parliament. That salutary compromise was reached in this chamber.

The authority granted under section 90.1 was, in fact, never used. Its use may have been proven disastrous as the clandestine shippers, or "human smugglers," as Senator St. Germain calls them, involved in the covert trafficking of humans notoriously employ dangerously unsafe, rundown vessels to move their human cargo to their intended destinations.

• (1540)

From my quick review of Canadian history, similar authority has been used at least twice in Canadian history.

Earlier in this century, a ship full of Sikhs from India landed in Vancouver and was refused permission to dock or to off-load any of its passengers. After a long standoff, the boat was forced to return to India without disembarking any of its passengers.

In the most notorious case, in 1939, Jewish refugees fleeing Nazi repression, on the ship the *St. Louis*, were denied entry to Canada after the United States and Cuba refused them permission to enter. That ship and all of its passengers eventually had to return to Nazi Germany, most to disappear in the smokestacks of captive Europe.

Honourable senators, when we turn back these boats, how many persons of remarkable and talented genius do we turn away? Would any of these be future Canadian Nobel Prize winners, such as Bellow, Altman, Cech, Friedman, Herschbach, Herzberg, Hubel, Lee, Marcus, Polanyi, Rotblat, or Taube? What about the Governor General herself, who advised us when she came to this chamber that she arrived in Canada as a refugee from China?

Honourable senators, if there is a scintilla of substance to the arguments that Canada might become an easy mark, a magnet, a careless safe haven or an unfair entry point, particularly to those unwilling to queue up and wait their turn to come to Canada, we must provide a rational response. We must neutralize those arguments, to convince Canadians why Canada should not turn back such unsafe boats at sea.

Let us start with the Constitution. The Charter of Rights and Freedoms requires a due process and a fair hearing to those who come to us asking for our protection. The Charter applies to anyone in Canada, all the time, not just to some of the people, some of the time. Despite what critics say, Canadians overwhelmingly believe in adherence to the Charter and its principles.

Turning back such boats on the high seas would be a serious breach of Canada's international obligations, which include the UN Law of the Sea obligation not to endanger lives at sea, and the UN convention relating to the status of refugees, which requires that each state offer safe haven to those who claim persecution.

Turning back boats, particularly these rundown, unsafe vessels, would most certainly endanger lives and betray Canada's constant battle to project a reputable policy of "human security," both in practice and in precedent. Canadians, and all senators, believe in and have respect for international norms and international conventions that we have signed and, hence, the international rule of law.

We must go further. We have an obligation, if we oppose this bill, to address and ameliorate the sources of the problem. What can we do? Human trafficking lies at the source. We must enlist other countries, including China, to combat crimes related to border controls, criminally organized smugglers and trafficking in human beings. In this way, we can allay part of the problem.

Canada has assumed a leading role in formulating United Nations protocols on transnational organized crime and migrant smuggling. To obtain multilateral adherence is an ongoing problem. This is a moving target, and more can be done. More energy can be enlisted on this international front. These efforts will also reduce part of the problem.

Successfully negotiated and implemented international protocols will require signatory states to facilitate the return of nationals and share information about the activities of organized criminals operating across borders. This, too, can alleviate part of the problem.

The Canadian government is strengthening its worldwide intelligence and tracking systems to see that these traffickers are intercepted, charged and prosecuted before their victims leave. This, too, can ameliorate part of the problem.

Recent history shows that by attacking the source of the problem, the problem becomes substantively less severe. For example, the Chinese government has reported the recent seizure of six migrant vessels, including up to four which some thought might have been destined for Canada.

Over 6,000 people lacking proper documentation were prevented from getting to Canada last year alone. Canada already has some of the most severe penalties in the world for smuggling — up to 10 years' imprisonment and fines up to \$500,000. While more can be done, we always must be careful that stronger government measures do not override our humanitarian principles.

The most excellent Minister of Citizenship and Immigration, my friend the Honourable Elinor Caplan, who comes from my region just outside of Toronto, has suggested in recent statements that the government is considering movement on series of fronts. Let me just recount a few.

First, increasing penalties for human trafficking to be at least as tough as penalties for trafficking in drugs.

Second, more aggressive action to seize vehicles, vessels and other property used in the course of such trafficking operations.

Third, the imposition of screening mechanisms for criminality and security considerations at the first instance of the refugee determination process, to identify criminals earlier and prevent them from abusing the system and to protect the true victims.

Fourth, empowering victims of organized crime by providing witness protection and offering landed immigrant status in Canada to encourage sworn testimony against those engaged in the unlawful smuggling and trafficking of human beings.

Fifth, clarifying existing grounds for detention to deal better with people smuggling and trafficking in Canada. Honourable senators will recall that the Immigration Act currently permits three grounds for detention: inability to establish identity, reasonable concern for public safety, and warranted fear from flight.

Finally, the government is considering consolidating the refugee determination process to make it faster and fairer.

Thus, honourable senators, not by one act but concerted actions, by a bundle of palliative actions, the miserable source of the problem can be ameliorated without egregious breaches of our Constitution, our international obligations and our international reputation. Let the Senate reaffirm the idea of Canada and say no to this legislation. We in the Senate and the Government of Canada can find other, fairer ways to reduce human trafficking and still protect the idea of Canada as a haven for the truly oppressed.

Honourable senators, I have been asked to adjourn the debate in the name of Senator Wilson. She would like to participate in this debate and unfortunately is not here.

On motion of Senator Grafstein, for Senator Wilson, debate adjourned.

The Senate adjourned until Tuesday, February 22, 2000, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(2nd Session, 36th Parliament)
Thursday, February 17, 2000

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-3	An Act to implement an agreement, conventions and protocols between Canada and Kyrgyzstan, Lebanon, Algeria, Bulgaria, Portugal, Uzbekistan, Jordan, Japan and Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	99/11/02	99/11/24	Banking, Trade and Commerce	99/12/07	none	99/12/16		
				Foreign Affairs	99/12/09	none			
S-10	An Act to amend the National Defence Act, the DNA Identification Act and the Criminal Code	99/11/04	99/11/18	Legal and Constitutional Affairs	99/12/16	two	00/02/09		

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-4	An Act to implement the Agreement among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station and to make related amendments to other Acts	99/11/23	99/12/01	Foreign Affairs	99/12/09	none	99/12/14	99/12/16	35/99
C-6	An Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act	99/11/02		Subject matter 99/11/24	99/12/06		99/12/09		
			99/12/06	Social Affairs, Science and Technology	99/12/07	2			
C-7	An Act to amend the Criminal Records Act and to amend another Act in consequence	99/11/02	99/11/17	Legal and Constitutional Affairs	99/11/30	4	99/12/08		
C-9	An Act to give effect to the Nisga'a Final Agreement	99/12/14	00/02/10	Aboriginal Peoples					
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2000	99/12/14	99/12/15		—	—	99/12/16	99/12/16	36/99

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
C-247	An Act to amend the Criminal Code and the Corrections and Conditional Release Act (cumulative sentences)	99/11/02							
C-202	An Act to amend the Criminal Code (flight)	00/02/08							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-2	An Act to facilitate the making of legitimate medical decisions regarding life-sustaining treatments and the controlling of pain (Sen. Carstairs)	99/10/13							
S-4	An Act to provide for judicial preauthorization of requests to be made to a foreign or international authority or organization for a search or seizure outside Canada (Sen. Nolin)	99/11/02							
S-5	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	99/11/02							
S-6	An Act to amend the Criminal Code respecting criminal harassment and other related matters (Sen. Oliver)	99/11/02	99/11/03	Legal and Constitutional Affairs					
S-7	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	99/11/02							
S-8	An Act to amend the Immigration Act (Sen. Ghitter)	99/11/02							
S-9	An Act to amend the Criminal Code (abuse of process) (Sen. Cools)	99/11/03							
S-11	An Act to amend the Criminal Code to prohibit coercion in medical procedures that offend a person's religion or belief that human life is inviolable (Sen. Perrault)	99/11/04	Dropped from Order Paper pursuant to Rule 27(3)				00/02/08		
S-12	An Act to amend the Divorce Act (child of marriage) (Sen. Cools)	99/11/18							
S-13	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	99/12/02							
S-15	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	99/12/16							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend.	3rd	R.A.	Chap.
S-14	An Act to amend the Act of incorporation of the Board of Elders of the Canadian District of the Moravian Church in America (Sen. Taylor)	99/12/02	99/12/07	—	—	—	99/12/08		

CONTENTS

Thursday, February 17, 2000

	PAGE		PAGE
ROUTINE PROCEEDINGS			
Adjournment		Senator Prud'homme	655
Senator Hays	653	Senator Hays	655
<hr/>			
QUESTION PERIOD			
The Senate		Senator Cools	655
Absence of Government Leader. Senator Hays	653	Senator Nolin	662
<hr/>			
Business of the Senate		Senator Kinsella	663
Senator Murray	653	Criminal Code (Bill S-9)	
Senator Hays	653	Bill to Amend—Second Reading—Debate Continued.	
<hr/>			
ORDERS OF THE DAY			
Royal Assent Bill (Bill S-7)		Senator Cools	655
Second Reading—Debate Continued. Senator Corbin	653	Senator Nolin	662
		Senator Kinsella	663
		Statistics Act	
		National Archives of Canada Act (Bill S-15)	
		Bill to Amend—Second Reading—Debate Adjourned.	
		Senator Milne	663
		Immigration Act (Bill S-8)	
		Bill to Amend—Second Reading—Debate Continued.	
		Senator Grafstein	665
		Progress of Legislation	i



If undelivered, return COVER ONLY to:
Public Works and Government Services Canada —
Publishing
45 Sacré-Cœur Boulevard,
Hull, Québec, Canada K1A 0S9

